

***United States Court of Appeals
for the Second Circuit***



APPENDIX

ORIGINAL

76-1129

B
PPS

**United States Court of Appeals
For the Second Circuit**

UNITED STATES OF AMERICA,

Appellee,

-against-

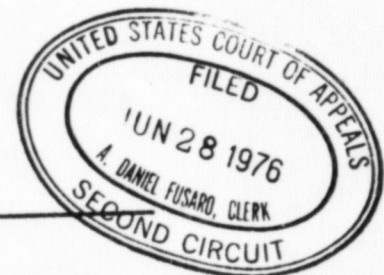
ANGELO RICCO, et al.,

Appellant.

*On Appeal from a Judgment of Conviction in the
United States District Court for the Southern
District of New York*

Appellant's Appendix

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CRIMINAL DOCKET
UNITED STATES DISTRICT COURT

75 CRIM. 411

D. C. Form No. 100 Rev.

TITLE OF CASE		ATTORNEYS
THE UNITED STATES		For U.S.:
vs.		James E. Nesland, AUSA, 791-0071
1. ANTHONY RICCO- 1, 4, 5, 7 & 11 2. ANGELO RICCO- 1, 2, 4, 5, 7 & 11 3. CHARLES INDIVIGLIA- 1 & 2 4. JAMES RIZZIERI- 1, 4 & 5 5. MICHAEL PUGLISI- 1 & 8 6. JOHN DISALVO- 1 & 6 7. ANTHONY ZINZI- 1 8. WILLARD WILLIAMS- 1 & 10 9. SAINT JULIAN HARRISON- 1 0. GEORGE CORRAO- 1 & 3 1. ANTHONY SPITALIERI- 1 & 2 2. FREDDIE BLAKE- 1		For Defendant:

STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC	DEB.
07)					
J.S. 2 mailed	Clerk				
J.S. 3 mailed 1/10/75	Marshal				
Violation	Docket fee				
Title 21					
Sec. 846, 812, 841(a)(1), (b) onsp. to viol. Fed. Narc. Laws (Rt.) istr. & possess. w/inter to distr. Narc. 1 (Civ. 2nd)					
(Eleven Counts)					

DATE	PROCEEDINGS
-23-75	1st indictment and ordered sealed. Pleaded. N/A or used.
-23-75	Anthony Spitalieri- Court fixed bail of \$25,000. case or surety in the event that he is apprehended in or outside the jurisdiction of the SDNY. Pleaded, J.
-22-75	indictment ordered unsealed. Anthony Ricco (arty. present) Pleads not guilty. Bail fixed at \$200,000. P.R.E. secured by \$50,000. cash or surety. Bail bond is approved by AUSA (the land) and the Court. Remanded in lieu of bail.
	Angele Ricco (arty. present) Pleads not guilty. Bail fixed at \$50,000. P.R.E. secured by \$10,000. cash or surety. Bail bond is approved by AUSA (the land) and the Court. Remanded in lieu of bail.
	Charles Indiviglia (arty. present) Pleads not guilty. Bail fixed at \$50,000. P.R.E. secured by \$10,000. cash or surety. Bail bond is approved by AUSA (the land) and the Court. Remanded in lieu of bail.
	Michael Puglisi (arty. present) No appearance by defendant. Motion entered. Remanded (no bail) Proceedings adj'd to 5/30/75 at 2 P.M.

(over)

BEST COPY AVAILABLE

PROCEEDINGS

Disalvo(atty. present) Pleads not guilty. Bail fixed at \$10,000. cash or surety. Deft. R.O.R to 5/30/75 at 12 noon at which time bail is to be posted.

W. Williams(atty. present)Pleads not guilty. Bail fixed at \$25,000. P.R.B. secured by \$7,500. cash. Bail bond to be co-signed by sister. Deft. remanded in lieu of bail.

Blase(atty. present) Pleads not guilty. Bail fixed at \$25,000. cash or surety. Deft. R.O.R. until June 2, 1975(12 noon) at which time bail is to be posted. Case assigned to Judge Lasker for all purposes. Gagliardi, J.

5 Puglisi(atty. present) Pleads not guilty. Bail fixed at \$25,000. P.R.B. to be signed by aunt and wife, and \$10,000. cash or surety. Deft. remanded in lieu of bail.

Corrado- No appearance by deft. or counsel. Adjourned to 6/3/75 at 9:30: Gagliardi, J.

JAMES RIZZIERI- Deft present w/o Atty. Court enters plea of NOT GUILTY. Pleading adj'd to June 16, 1975 to obtain Atty. R.O.R. ---GAGLIARDI, J.

ANTHONY ZINZI- Deft (Atty John Coaly. present), enters plea of NOT GUILTY. R.O.R.-GAGLIARDI, J.

GEORGE CORRADO- Deft. present w/o Atty. enters plea of NOT GUILTY by the Court. Forwarded to Magistrate for Atty. R.O.R. ---GAGLIARDI, J.

SAINT JULIAN HARRISON- Deft. (Atty Herbert Spaul present), enters plea of NOT GUILTY. 10 days for Motions. R.O.R. ---GAGLIARDI, J.

ALL DEFT'S EXCEPT #11 - Filed Warrant for Arrest of Deft's dated 4-24-75 with Marshall's return executed on all.

JOHN DI SALVO- Filed Appearance Bond for the sum of \$10,000.00 dated 5-30-75. Name of Surety, Midland Insurance Co. -CLERK.

CHARLES FERRICGLIA- Filed P.R.B. w/out security in the sum of \$50,000. Bond secured by deed to house at 2538 Broadway Ave, Ex, NY and bank book #11 75326, Manufacturers Trust Co. -CLERK.

ANGELO RICCO- Filed Appearance Bond for the sum of \$50,000. Name of Surety: Wife, Frances Ricco. - CLERK

ANGELO RICCO- Filed Surety Personal Appearance Bond in the sum of \$10,000 dated 5-30-75. Name of Surety- The Stuyvesant Insurance Co. - CLERK.

MICHAEL PUCLISI- Filed Surety Personal Appearance Bond in the sum of \$10,000. dated 5-30-75. Name of Surety- The Stuyvesant Insurance Co. - CLERK.

MICHAEL PUCLISI- Filed Appearance Bond in the sum of \$25,000 dated 5-30-75. Name of Surety - Wife & Aunt. - CLERK

ANTHONY RICCO- Filed Surety Personal Appearance Bond in the sum of \$50,000. dated 6-2-75. Name of Surety- The Stuyvesant Insurance Co. - CLERK.

(Cont'd on Page #3)

B

Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Date Of Judgment
2-75	ANTHONY RICCO= Filed Personal Appearance Bond in the sum of \$200,000.00 dated 6-2-75. Name of Sureties= Sister, Brother, & Rita Lanza, deed owner of Happy Dale Acres, Inc. - CLERK.	
2-75	WILLARD WILLIAMS= Filed Appearance Bond in the sum of \$25,000.00, secured by the sum of \$7,500. Cash. Receipt #52529. Name of Surety- Evelyn Jenkins. -CLERK	
3-75	FRED BLASE= Filed Appearance Bond in the sum of \$5,000.00 dated 6-3-75. Name of Surety - Midland Insurance Co. - CLERK.	
3-75	ANTHONY & ANGELO RICCO= Filed Notice of Appearance of Atty. Samuel Morris, 565 5th Ave, N.Y.C. 10017 Tel# 682-1955.	
3-75	CHARLES INDIVIGLIA= Filed Notice of Appearance of Atty. Robert L. Ellis, 17 East 63rd Street, NYC 10021 Tel# 833-2323.	
3-75	MICHAEL PUGLISI= Filed Notice of Appearance of Atty. Richard Friedman, 655 Madison Ave, N.Y.C. Tel# 371-9133.	
3-75	WILLARD WILLIAMS= Filed Notice of Appearance of Atty. Ronald Margolis, 1350 6th Ave, N.Y.C. 10019 Tel# 541-5550.	
3-75	JOHN DISALVO & FREDDIE BLASE= Filed Notice of Appearance of Atty. Murray Richman, 1930 Grand Concourse, Bronx, NY Tel# 878-1360.	
29-75	GEORGE CARRADO= Filed affdvt. of J.F. Nesland, AUSA in support of a writ...Ret.6-2-75.	
29-75	ANTHONY ZINZI= Filed affdvt. of J.F. Nesland, AUSA in support of a writ...Ret.6-2-75.	
29-75	SAINT JULIAN HARRISON= Filed affdvt. of J.F. Nesland, AUSA in support of a writ...Ret. 6-2-75.	
29-75	JAMES RIZZIERI= Filed affdvt. of J.F. Nesland, AUSA in support of a writ...Ret.6-2-75.	
9-75	ANTHONY & ANGELO RICCO= Filed Notice of Appearance of Atty. David Breithart, 401 Bway, NYC 10013 Tel# 925-2105.	
11-75	SAINT JULIAN HARRISON= Filed notice of appearance of atty. Norbert S. Siegal, 17 John Street, NYC Tel# 98-2-534.	
1-75	WILLARD WILLIAMS= REMAND issued 5-29-75.	
1-75	ANTHONY RICCO= REMAND issued 5-29-75.	
1-75	ANGELO RICCO= REMAND issued 5-29-75.	
11-75	CHARLES INDIVIGLIA= REMAND issued 5-30-75.	
11-75	MICHAEL PUGLISI= REMAND issued 5-30-75.	
16-75	S.J. HARRISON= Filed deft. Notice of Motion for Bill of Particulars, for Inspection & Discovery to suppress...etc and separate trial..... No ret. date given.	

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Cr 411 MEL

Page #4

75 Cr 411 MEL

PROCEEDINGS	Date Order or Judgment Noted
GEORGE CORRADO-Marked off calendar.	
James Rizzieri-Deft present (on writ) Atty: Howard Jacobs Assigned per to CJA as counsel. (Pend of not guilty entered prior to to day) Writ adj to 6-20-75. Gagliardi, J.	
5 St. JAMES HARRISON-Filed Writ of H/C Ad Proseq. for deft. to appear 5-29-75-writ Satisfied on 6-3-75 Gagliardi, J.	
75 ANTHONY ZINZI-Filed Writ of H/C Ad Proseq. for deft. to appear 5-29-75 -adj to 6-3-75---Writ Satisfied 6-3-75---Gagliardi, J.	
75 GEORGE CORRADO-Filed Writ of P/C Ad Proseq. for deft. to appear SD NY on 5-29-75. ...Writ adj to 6-3-75....Gagliardi, J.	
5 ANTHONY SPITALIERI-Deft appears w/o counsel. (AUSA James Healand present) Court direct a plea of NOT GUILTY to be entered. Deft. is don't'd free on bail (\$25,000 Cash or Surety) which was posted in Ohio and is to cover this indictment....Knapp, J.	
75 ANTHONY SPITALIERI- Filed Warrant for arrest of Deft. dtd 4-24-75 with Marshall's return. Warrant executed in the Northern District of Ohio, Eastern Division on 5-27-75.	
5 JAMES RIZZIERI- Filed Writ of Habeas Corpus with Marshall's return.	
5 GEORGE CORRADO- Filed Deft's OIA-23 Financial Affidavit.	
75 Filed Govt's Notice of Readiness for Trial on or after 8-1-75.	
5 MREDDIE BLASE- Filed Deft's Motion for a severance and preclude the introduction of certain material by the Government.	
75 FR EDIE BLASE- Filed Deft's Omnibus Motion.	
75 ANTHONY SPITALIERI- Filed the following papers rec'd from Marietta Steepw, U.S. District Court, Northern District of Ohio. (5/27/75-1023: Record of Proceedings - Warrant for Arrest of Deft. - Copy of Indictment - Order Specifying Methods and Conditions of Release - Report on Bond for the sum of \$25,000. Surety, dtd 5-30-75 - Report of Proceedings.	
75 MICHAEL PUGLISI- Filed Deft's affdvt and Notice of Motion for Bill of Particulars pursuant to Rule 7 (f).	
75 MICHAEL PUGLISI- Filed Deft's Memorandum of Law in support of the above motion.	
75 WILLARD WILLIAMS- Filed Deft's affdvt & Notice of Motion pursuant to Rule 16 of the F.R.Cr.P. for Discovery & Inspection and for a Bill of Particulars pursuant to Rule 7(f).	
75 WILLARD WILLIAMS- Filed Deft's affdvt and Notice of Motion for an order pursuant to Rule 6 of the F.R.Cr.P. for an order granting discovery & inspection of the Grand Jury minutes and for a further order dismissing the indictment.	
75 WILLARD WILLIAMS- Filed Deft's affdvt & Notice of Motion to dismiss indictment.	
(Cont'd on Page #5)	

D

D. C. 110 Rev. Civil Docket Continuation

DATE	PROCEEDINGS	Deft's Judge
8-18-75	ANTHONY RICCO- Filed Deft's Affidvt & Notice of Motion pursuant to Rule 16 of the F.R.Cr.P., discovery of the items more particularly described in the affidavit in support of this motion.	
8-18-75	ANTHONY RICCO- Filed Deft's Memorandum of Law for Severance.	
8-18-75	ANTHONY RICCO- Filed Deft's Memorandum of Law.	
8-19-75	JOHN DISALVO- Filed Deft's Notice of Motions for Bill of Particulars, Discovery and Inspection and others as so indicated.	
8-19-75	JOHN DISALVO- Application for permission to appear Pro Hac Vice.	
8-19-75	JOHN DISALVO- Filed Deft's notice of Motion to introduce evidence.	
8-19-75	JOHN DISALVO- Filed Deft's Motion for Severance from prejudicial joinder.	
8-19-75	JOHN DISALVO- Filed Deft's Motion to interview Govt witness.	
8-19-75	JOHN DISALVO- Filed Deft's motion for Speedy Trial.	
8-19-75	JOHN DISALVO- Filed Deft's motion to Suppress.	
8-19-75	JOHN DISALVO- Filed Deft's motion for Discovery & Inspection.	
8-19-75	JOHN DISALVO- Filed Deft's brief in support of posttrial motions.	
8-19-75	JOHN DISALVO- Filed Affidvt of Deft.	
8-25-75	JAMES RIZZIERI- Filed Deft's Notice of Motion & Affidvt for an order pursuant to Rules 7, 8, 14 and 16 of the F.R.Cr.P.	
8-25-75	JAMES RIZZIERI- Filed Memorandum of Law in support for a severance, Bill of Particulars and Discovery and Inspection.	
9-26-75	File Govt's Memo of Law in opposition to Pre Trial Motions of Defts.	
9-26-75	ANTHONY RICCO & ANGELO RICCO- Filed Deft's Reply Affidvt by D. Breitbart, Esq.)	
10-2-75	ANTHONY RICCO- Filed Govt's Suppl. memo of law in opposition to deft's motion for severance.	
11-17-75	ANTHONY RICCO- Filed Deft's Affidvt & Notice of Motion for an order that the Govt not be permitted to introduce at trial certain photographs.	
11-18-75	Filed MEMORANDUM 11/18/75 - Nine of the twelve defts have filed in boxes of motions on such disparate subjects as severance, discovery, bill of particulars, dismissal of the indictment, limitations of the government's proof and other matters. These motions are granted to the extent specified or continued to by the government on more otherwised written LASKER, J. (a/n's 11-21-75)	
11-26-75	ANTHONY SPITALIERI- Filed letter to deft. from Lasker, J. & Memo. 43408, returned by the Post Office as Not Deliverable.	
12-02-75	Deft. St. Julian Harrison present. U.S. Atty. Dominick Amorosa present. Deft's. Atty. Herbert Siegal by Gilbert Epstein, present. Bail set at \$10,000 cash or surety bond to be paid by noon Wednesday (12-3-75). Deft. to be committed until bail is posted. Lasker, J.	
12-3-75	ANTHONY ZINZI- Filed CJA Form 23 - Deft's. financial affidavit.	
12-2-75	ST. JULIAN HARRISON- Filed deft's. appearance bond in the sum of \$10,000.00 - Midland Insurance Company - acknowledged by the Clerk.	
12-3-75	ANTHONY ZINZI- Filed Govt's. affidavit for a writ of habeas corpus, directed to Warden, Green Haven Correctional Facility. Writ Issued, ret. 12-3-75.	

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	PROCEEDINGS	Date Order or Judgment Made
-75	JAMES RIZZIERI - Filed Gov't's. affidavit for a writ of habeas corpus directed to Warden, U.S.P., Lewisburg, Pa. Writ Issued, ret. 12-10-75.	
75	Filed Pltffs. Bill of Particulars.	
75	ANTHONY RICCO & ANGELO RICCO - Filed Order that the territorial limits of bail shall hereby be enlarged from the Southern District of New York to include Brentwood, Long Island, New York, for the Christmas holidays. Lacher J. (mailed notice)	
75	GEORGE CORRADO - Filed Gov't Affidavit for a writ of habeas corpus directed to Warden Bronx House of Detention. Writ Issued Ret. 12-23-75.	
5	Filed Remand - Deft. Harrison is released from the Custody of the U.S. Marshal upon posting \$10,000. Surety Bond. dtd. 12-2-75.	
75	Pleading Re: George Corrado Ordered marked off the calendar. Kuapp J.	
5	RICCO - Filed 2nd Offender Information.	
5	INDIVIGLIA - Filed 2nd Offender Information.	
75	GEORGE CORRADO - Filed Gov't's. affidavit for Writ of Habeas Corpus to produce deft. - Writ issued Ret. 12-30-75.	
6	CHARLES INDIVIGLIA - Filed Affidavit by deft. in support of application to remain at liberty pending sentencing under the conditions of bail as set on the 5-30-75 by Judge Casliardi.	
6	ANGELO RICCO - Filed Deft's. Affidavit - Re: increased bond.	
6	Deft. - Angelo Ricco present with atty - Paul Gallo Esq.	
	Deft. Charles Indiviglia present with atty. Albert Marchiony & Robert M. Schneider	
	Deft. James Rizzieri present with atty - Hon. J. Jacobus.	
	Deft. John Di Salvo present with atty. - James M. F. Brown	
	Deft. George Corrado present with atty. - Robert Mitchell	
	Deft. Fred Blase present with atty. - Murray Rickman - Trial begun - Jury selected.	
	Trial cont'd.	
	Trial Cont'd	
	Trial Cont'd	
5	Trial Cont'd	
7	Trial Cont'd	
6	Trial Cont'd	
7	Trial Cont'd	
6	Trial Cont'd - Deft. Ricco Granted severance.	
7	Trial Cont'd	
6	Trial Cont'd	
6	Trial Cont'd & concluded. - R.M.	
	A. ANGELO RICCO - Found "Guilty" on ctas. 1, 2, 4, 5, 7, 11 - Bail cont'd as before - \$50,000 PRB Secured by \$10,000 cash States that he has no other cash reserves & to be filed & deft. is to report weekly to U.S. Marshal between now & date of sentence - which is March 5, 1976.	
	CHARLES INDIVIGLIA - Found "Guilty" on ctas. 1, 2, 4, 5, 7, 11 - Bail cont'd as before in ret. of \$50,000 PRB - Deft. to report every week to U.S. Marshal Office - Sentence set for 3/4/76 - 9:45 a.m. States that he has no further cash reserves.	

(Continued)

7

DATE	PROCEEDINGS
1-22-76	(Continued) JOHN DI SALVO - Found "Guilty" on cts. 1 & 6 - Bail could be before \$10,000 cash or surety - Affdvt. that he has no other assets that could be pledged. Sentence set for 3/5/76 JAMES RIZZIERI - Found "Guilty" on counts 1 & 5 - presently in custody for prior offense. Detainer to be placed. GEORGE CORRADO - Found "Guilty" on counts 1 and Not Guilty on Count 3. Dft. presently in custody for prior offense - Detainer to be placed. Lasker J.
1-27-76	JOHN DI SALVO - Filed Affidavit in support of his motion to continue the same bail.
-9-76	ANTHONY ZINZI - Filed Writ of Habeas Corpus Directed to Warden, Green Haven Correct. Facility with marshals ret. - executed this writ by returning the within named deft. to Greenhaven Correct. Facility this date. dtd. 12-18-75.
-22-76	GEORGE CORRADO & RIZZIERI, JAMES - Bench Writs issued.
-11-76	CHARLES INDIVIGLIA, et al. - Filed Order that cts. PRB are extended to include the State of Florida & extended from 2-11-76 through 2-22-76; & the PRB are extended to include the Eastern Dist. of N.Y. on a permanent basis; Except for said provisions the dft. shall abide with all the terms & provisions of his P&B executed on 5-30-75; & Dft. return to the SDNY & appear within 74 hours of the receipt of his atty., etc. Lasker J. (mailed notice)
-18-76	Filed Transcript of proceedings dtd. Jan. 5, 6, 12, 1976
-18-76	Filed Transcript of proceedings dtd. Jan 13, 14, 15, 19, 1976.
-18-76	Filed Transcript of proceedings dtd. Jan. 20, 21, 22, 23, 1976.
-23-76	FRED BLASE - Filed Defts. Memorandum of Law.
-02-76	ANGELO RICCO, ET AL - Filed Gov'ts. memorandum of law.
-6-76	ANTHONY ZINZI - Filed Gov'ts. affidavit for a writ of H/C Directed to Warden Green Haven Correct Facility. Writ Issued Returnable 3-3-76.
-7-76	JAMES RIZZIERI - Filed JUDGMENT & COMMITMENT ORDER (Atty. Present) The Dft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE (5) YEARS on Counts 1, 4, & 5, the said sentence to run concurrently with each other & with the sentence presently being served by the dft. under judgment of the Eastern District of N.Y. & upon the expiration of the term of custody, the dft. shall serve a SIX (6) YEAR period of the Special Parole in accordance with the provisions of T21 USC 841(b). This sentence is subject to the provisions of T. 28 USC 4208(a)(2). Lasker J.
11-76	Issued Commitment.
5-76	GEORGE CORRADO - Filed JUDGMENT & COMMITMENT ORDER (Atty. Present) The Dft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FOUR (4) YEARS on Count 1, the said sentence to run concurrently with the sentence presently being served by the dft. in custody of N.Y. State, & upon the expiration of the term of custody, the dft. shall serve a SIX (6) YEAR period of Special Parole in accordance with the provisions of T. 21 USC 841(b). Lasker J
11-76	Issued Commitment.

Lasker J.

PROCEEDINGS

- 76 ANGELO RICO - Filed JUDGMENT & COMMITMENT ORDER (Atty. Present) The Dft. is hereby committed to the custody of the Atty. General or his authorized representative for imprisonment for a period of FIVE(5) YEARS on counts 1, 2, 4, 5, 7 & 11, the said sentences to run concurrently with each other and upon the expiration of the term of custody, the dft. shall serve a FIVE(5) YEAR period of Special Parole in accordance with the provisions of T.21, USC 841(b) and on Count 2 imposition of sentence of imprisonment is suspended & the dft. is placed on probation for a period of FIVE(5) YEARS, the term of which is not stayed and shall commence at this time. The sentences of imprisonment hereinabove imposed are subject to the provisions of T.28, USC 4203(a)(2).....Lasker J.
- 76 Issued Commitment.
- 76 CHARLES INDIVIGLIA - Filed JUDGMENT & COMMITMENT ORDER (Atty. Present) The Dft. is hereby committed to the custody of the Atty General or his authorized representative for imprisonment for a period of FIVE(5) YEARS on Count 1 and upon the expiration of the term of custody, the dft. shall serve a SIX(6) YEAR period of SPECIAL PAROLE in accordance with the provisions of T.21, USC 841(b). On Count 2 the imposition of sentence of imprisonment is suspended & the dft. is placed on probation for a period of FIVE(5) YEARS, the term of which is not stayed & shall commence at this time. The sentence of imprisonment hereinabove imposed is subject to the provisions of T.28 USC 4203(a)(2).....Lasker J.
- 76 Issued Commitment.
- 76 Dft. Anthony Zinzi present Dfts. Atty. John Conley present Dft. withdraws N/G plea & now pleads Guilty to Count 1. Sentence set on 4-16-76 at 10:A.M. Lasker J.
- 76 JAMES RIZZI - Filed Dfts. Notice of Appeal from the final Judgment dtd. 3-5-76. (mailed notice)
- 2-76 ANGELO RICO - Filed Dfts. Notice of Appeal from Judgment dtd. 3-5-76. (mailed notice)

A TRUE COPY

RECORDED

By

M. J. L.

CLERK

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

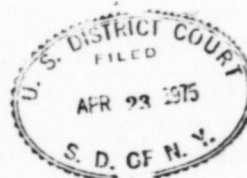
UNITED STATES OF AMERICA

-v-

ANTHONY RICCO, a/k/a Tony Bragiolo,
ANGELO RICCO, CHARLES INDIVIGLIA, a/k/a
Charlie Poops, JAMES RIZZIERI, MICHAEL
PUGLISI, a/k/a Mike Siciliano, JOHN
DISALVO, a/k/a Johnny Babear,
ANTHONY ZINZI, WILLARD WILLIAMS, a/k/a
Trees, SAINT JULIAN HARRISON, a/k/a
Harry, GEORGE CORRADO, ANTHONY
SPITALIERI, a/k/a Tony Spits, a/k/a
Tony from Cleveland, and FREDDIE BLASE,
Defendants.

INDICTMENT

75 Cr.



COUNT ONE

The Grand Jury charges:

1. From on or about the 1st day of January, 1971 and continuously thereafter up to and including the 30th day of December, 1973, in the Southern District of New York, ANTHONY RICCO, a/k/a Tony Bragiolo, ANGELO RICCO, CHARLES INDIVIGLIA, a/k/a Charlie Poops, JAMES RIZZIERI, MICHAEL PUGLISI, a/k/a Mike Siciliano, JOHN DISALVO, a/k/a Johnny Babear, ANTHONY ZINZI, WILLARD WILLIAMS, a/k/a Trees, SAINT JULIAN HARRISON, a/k/a Harry, GEORGE CORRADO, ANTHONY SPITALIERI, a/k/a Tony Spits, a/k/a Tony from Cleveland, and FREDDIE BLASE, the defendants, and others to the Grand Jury known and unknown, including Albert Rossi, Gary Pearson, Peter Mengrone, named herein as co-conspirators but not as defendants, and others, unlawfully, intentionally and knowingly combined, conspired, confederated and agreed together and with each other to violate Sections 812, 841(a)(1) and 841(b)(1)(A) of Title 21, United States Code.

2. It was part of said conspiracy that the said defendants unlawfully, intentionally and knowingly would distribute and possess with intent to distribute Schedule I and II narcotic drug controlled substances the exact amount

RECORDED
JUN 02 1975

thereof being to the Grand Jury unknown in violation of Sections 812, 841(a)(1) and 841 (b)(1)(A) of Title 21, United States Code.

OVERT ACTS

In pursuance of said conspiracy and to effect the objects thereof, the following overt acts were committed in the Southern District of New York:

1. In or about September, 1971, defendant FREDDIE BLASE met co-conspirator Albert Rossi in the Bronx, New York.
2. In or about October and November, 1971, defendant ANGELO RICCO delivered ounces of heroin to defendant FREDDIE BLASE and co-conspirator Albert Rossi at the Chester House, the Rosedale Avenue Social Club, and elsewhere in the Bronx, New York.
3. In or about March and April, 1972, defendant ANGELO RICCO delivered ounces of heroin to defendant FREDDIE BLASE and co-conspirator Albert Rossi at a seafood restaurant, City Island, Bronx, New York.
4. In or about March and April, 1972 defendant GEORGE CORRADO purchased heroin from co-conspirator Albert Rossi at an apartment on Williamsbridge Road, Bronx, New York for resale to others.
5. In or about August, 1972 in the Bronx, New York, defendant JAMES RIZZIERI met with co-conspirator Albert Rossi and negotiated to sell heroin.
6. In or about September, 1972, defendants ANTHONY RICCO, a/k/a Tony Bragiolo, and ANGELO RICCO met with defendant JAMES RIZZIERI and co-conspirator Albert Rossi at the Magic Carpet, Bronx, New York and discussed the sale of large quantities of heroin.

7. In or about November or December, 1972

Defendants ANTHONY RICCO, a/k/a Tony Bragiolo, and ANGELO RICCO delivered two kilograms of heroin in the vicinity of the Magic Carpet, Bronx, New York for defendant JAMES RIZZIERI and co-conspirator Albert Rossi.

8. In or about November or December, 1972

defendant JOHN DISALVO, a/k/a Johnny Babear, met with co-conspirator Albert Rossi at the Magic Carpet, Bronx, New York and negotiated to purchase 1/8 kilogram of heroin.

9. In or about November, 1972 defendant JAMES

RIZZIERI delivered approximately one-half kilogram of heroin to another in the vicinity of Hugh Grant Circle, Bronx, New York.

10. In or about March, 1973 defendant ANTHONY

ZINZI met with co-conspirator Albert Rossi at the Hi Hat, Bronx, New York and discussed the sale of 1/8 kilogram of cocaine.

11. In or about February or March, 1973, defendant

ANTHONY SPITALIERI, a/k/a Tony Spits, a/k/a Tony from Cleveland, purchased approximately 1/4 kilogram of cocaine from co-conspirator Albert Rossi in the vicinity of 2007 Warragansett Avenue, Bronx, New York.

12. In or about March, 1973 defendant WILLARD

WILLIAMS, a/k/a Trees, purchased 1/8 kilogram of cocaine from co-conspirator Albert Rossi at 92nd Street, New York, New York.

13. In or about April and May, 1973 defendants

WILLARD WILLIAMS, a/k/a Trees and SAINT JULIAN HARRISON, a/k/a Harry had meetings in the Cellar Bar, New York, New York, and elsewhere with co-conspirator Albert Rossi and others and discussed the sale of 50 kilograms of heroin to co-conspirator Frank Matthews.

14. In or about April or May, 1973 defendant ANTHONY RICCO, a/k/a Tony Bragiolo, met with co-conspirator Albert Rossi at a carwash in the Bronx, New York and discussed supplying 50 kilograms of heroin.
15. In May, 1973 defendants WILLARD WILLIAMS, a/k/a Trees, and SAINT JULIAN HARRISON, a/k/a Harry, and others, delivered \$350,000 to co-conspirator Albert Rossi in the vicinity of 2007 Narragansett Avenue, Bronx, New York.
16. In or about May, 1973 defendant JOHN DISALVO, a/k/a Johnny Babear, sold 1/8 kilogram of heroin to co-conspirator Jerry Rubin in the Bronx, New York.
17. In or about June, 1973 defendant ANTHONY ZINZI met with co-conspirator Peter Mengrone at Empire Ford, Mount Vernon, New York and negotiated to sell cocaine and heroin to co-conspirator Peter Mengrone.
18. In or about June, 1973 defendant MICHAEL PUGLISI, a/k/a Mike Siciliano, delivered cocaine to co-conspirator Gary Pearson in the Bronx, New York.
19. In or about August, 1973 defendant WILLARD WILLIAMS, a/k/a Trees, purchased approximately 1/2 kilogram of cocaine from co-conspirator Gary Pearson at Empire Ford, Mount Vernon, New York.
20. In or about August, 1973 defendant ANTHONY SPITALIERI, a/k/a Tony Spits, a/k/a Tony from Cleveland, purchased approximately 1/4 kilogram of cocaine from co-conspirator Peter Mengrone in the vicinity of the Raceway Diner, Yonkers Avenue, Yonkers, New York.
21. In or about September, 1973, CHARLES INDIVIGLIA, a/k/a Charlie Poops, purchased approximately 1/4 kilogram of heroin from defendant ANTHONY RICCO, a/k/a Tony Bragiolo in the vicinity of the Magic Carpet, Bronx, New York.
22. In October, 1973 defendant ANTHONY RICCO, a/k/a Tony Bragiolo, met with co-conspirator Peter Mengrone and another at the Magic Carpet, Bronx, New York, and negotiated to sell 3 kilograms of heroin.

(Title 21, United States Code, Section 846)

COUNT TWO

The Grand Jury further charges:

In or about August or September, 1972

in the Southern District of New York,

ANGELO RICCO, and
CHARLES INDIVIGLIA, a/k/a Charlie Poops,

the defendants, unlawfully, wilfully and knowingly did
distribute and possess with intent to distribute a
Schedule II narcotic drug controlled substance, to wit,
approximately 1 kilogram of cocaine.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT THREE

The Grand Jury further charges:

In or about October or November, 1972

in the Southern District of New York,

GEORGE CORRADO,

the defendant, unlawfully, intentionally and knowingly
did distribute and possess with intent to distribute a
Schedule I narcotic drug controlled substance, to wit,
approximately 1/8 kilogram of heroin.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT FOUR

The Grand Jury further charges:

On or about the 22nd day of November, 1972

in the Southern District of New York,

ANTHONY RICCO, a/k/a Tony Bragiolo,
ANGELO RICCO, and
JAMES RIZZIERI,

the defendants, unlawfully, wilfully and knowingly did
distribute and possess with intent to distribute a
Schedule I narcotic drug controlled substance, to wit,
approximately 461.9 grams of heroin.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT FIVE

The Grand Jury further charges:

In or about November or December, 1972

in the Southern District of New York,

ANTHONY RICCO, a/k/a Tony Bragiolo,
ANGELO RICCO, and
JAMES RIZZIERI,

the defendants, unlawfully, wilfully and knowingly did
distribute and possess with intent to distribute a
Schedule I narcotic drug controlled substance, to wit,
approximately 2 kilograms of heroin.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).)

COUNT SIX

The Grand Jury further charges:

In or about May, 1973, in the Southern District of New York, JOHN DISALVO, a/k/a Johnny Babear, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 1/8 kilogram of heroin.

(Title 21, United States Code, Sections 812
841(a)(1) and 841 (b)(1)(A).

COUNT SEVEN

The Grand Jury further charges:

In or about May or June, 1973, in the Southern District of New York, ANTHONY RICCO, a/k/a Tony Bragiolo, and ANGELO RICCO, the defendants, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 1 kilogram of cocaine.

(Title 21, United States Code, Sections 812,
841(a)(1) and 841(b)(1)(A).

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COUNT EIGHT

The Grand Jury further charges:

In or about July or August, 1973, in the Southern District of New York, MICHAEL PUGLISI, a/k/a Mike Siciliano, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance to wit, approximately 1 kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT NINE

The Grand Jury further charges:

In or about August, 1973 in the Southern District of New York, ANTHONY SPITALIERI, a/k/a Tony Spits, a/k/a Tony from Cleveland, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 1/4 kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).)

COUNT TEN

The Grand Jury further charges:

In or about August, 1973 in the Southern District of New York, WILLARD WILLIAMS, a/k/a Trees, the defendant, unlawfully, wilfully and knowingly did distribute and possess with intent to distribute a Schedule II narcotic drug controlled substance, to wit, approximately 1/2 kilogram of cocaine.

(Title 21, United States Code, Sections 812, 841(a)(1) and 841(b)(1)(A).

COUNT ELEVEN

The Grand Jury further charges:

In or about October, 1973 in the Southern District of New York, ANTHONY RICCO, a/k/a Tony Bragirole, and ANGELO RICCO, the defendants, unlawfully, intentionally and knowingly did possess with intent to distribute a Schedule I narcotic drug controlled substance, to wit, approximately 3 kilograms of heroin.

(Title 21, United States Code, Sections 812 841(a)(1) and 841(b)(1)(A).

James J. Davis
Foreman

Paul J. Curran
PAUL J. CURRAN
United States Attorney

PA. J. Curran

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CHARGE OF THE COURT

(Lasker, D.J.)

Ladies and gentlemen, now that you have heard the testimony and the arguments of counsel, the time has come to instruct you as to the law governing the case.

You have been chosen and sworn as jurors in this matter to try the issues presented by the allegations of the indictment, and on your determination of the facts, and I stress the words "your determination" to decide under the law as I shall instruct you whether the Government has proven any of the charges of the indictment against any of the defendants beyond a reasonable doubt.

I will discuss those charges with you in detail in a moment, but before that, I want to give you a few important preliminary and general instructions.

First, you are to perform your duties as jurors without bias or prejudice to or for anybody, whether the Government or any of the defendants. The law does not permit jurors, and you wouldn't want it to permit jurors to be governed either by sympathy or swayed by prejudice or public opinion. In that connection, I want to point out that although this case involves narcotics, the subject

1 matter of this case has nothing to do with your delibera-
2 tions except that as one of the facts you must find as to
3 the substantive counts that indeed, what it is alleged
4 was possessed, was narcotics, but you do not find a man
5 guilty, or not guilty because of the nature of the charge.
6 You only find him guilty if the Government proves the
7 element of the offense which I will specify for you here-
8 after.

9
10 Your personal attitudes on the subject on which
11 I examined you at great length it seems to me when this
12 jury was chosen, has nothing to do with the issue which you
13 are asked to decide.

14 Second, we start with the proposition that
15 we started with at the outset of the trial. That is, that
16 the law presumes every defendant to be innocent against
17 every charge that is made.

18 You will recall when you were selected I
19 specifically asked each one of you if you could enter into
20 the discharge of your duties presuming each defendant to
21 be innocent unless proven guilty beyond a reasonable doubt
22 after your own deliberations, and each of you gave me the
23 answer "yes."

24 This presumption of innocence is sufficient to
25 acquit any defendant unless and until you as jurors have

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1
2 unanimously satisfied yourselves beyond a reasonable
3 doubt of that particular defendant's guilt on that particular
4 charge from all of the evidence which has been presented.

5 The burden or responsibility is on the Govern-
6 ment to prove each defendant guilty beyond a reasonable
7 doubt of every essential element of each crime charged,
8 and I will advise you later in this charge just what those
9 elements are.

10 Third, I want to remind you what I mentioned
11 at the outset of the trial, that is, that the existence
12 of the indictment does not constitute evidence against any
13 defendant but it is merely a method of bringing a charge
14 against them. The indictment in this case contains several
15 counts, as you know. Each count contains a separate crime
16 and each of the charges must be considered separately.

17 Equally important is the observation that the
18 indictment names 12 defendants of whom only six are on trial.
19 They are the persons whose guilt or innocence you must
20 announce in your verdict.

21 In the determination of innocence or guilt,
22 you must bear in mind that that determination is personal.
23 The guilt or innocence of a defendant on trial before you
24 must be separately determined with respect to him, solely
25 on the evidence presented against him or the lack of

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21

evidence.

The case of each defendant stands or falls upon the proof or lack of proof of the charge against that defendant and not against someone else.

Now, I have said and the lawyers have said many times throughout the case that the Government has assumed the burden of proving each defendant guilty beyond a reasonable doubt. Let me define that important term for you at the outset.

A reasonable doubt is not a vague, speculative or imaginative doubt. It is a doubt which, as the phrase suggests, is based upon reason and which comes either from the evidence or from the lack of evidence. It is a doubt which a reasonable man or woman might entertain. It is a doubt, and I think this is the best definition, which would cause reasonable men and prudent men and women like yourselves to hesitate to act in connection with matters of importance in your own private lives.

Let us say you have an important decision to make. How do you go about making that decision? You think about everything you know about it and you think about everything you would want to know and haven't been told and you say to yourselves, do I have enough information, do I have enough dependable information so I am ready to

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2 act. If you say "I don't have enough," then you have
3 a reasonable doubt. If you say "I do," then you may proceed.
4 A mere suspicion can't justify conviction. Suspicion
5 is no substitute for evidence, nor is it sufficient to
6 convict if you find that the circumstances merely render the
7 guilt of a defendant probable.

8 The law does not deal in probabilities.

9 In saying that the Government must prove its
10 case beyond a reasonable doubt, if there is to be a conviction,
11 I do not mean to say that the Government is required
12 to prove guilt beyond all possible doubt. Indeed, in
13 human affairs, it is hard to think of anything we can
14 prove beyond all possible doubt with the exception of
15 mathematical propositions, but the proof must be of
16 such a convincing character that you would be willing to
17 rely and act on it in the most important decisions of
18 your own affairs.

19 Now, the evidence in this case, as I have told
20 you a number of times, consists of the testimony of witnesses
21 the exhibits which have been received in evidence and
22 facts which have been stipulated or agreed to by counsel.
23 You have to decide the case based solely on the evidence
24 but in your consideration of the evidence, you are not limited
25 to the bald statement of the witnesses here or any witnesses

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2 in any trial. By using the word "bold" I don't know
3 to suggest anything about the character of the testimony,
4 but I mean you are entitled to and you are obliged to
5 think behind the mere words that were uttered. Indeed,
6 ladies and gentlemen, in this case, there is no doubt
7 and all counsel agree and so do I, that the outcome of
8 this case depends most exclusively on your determination
9 of what witnesses you believe and the extent to which you
10 believe them.

11 In deciding the many questions before you,
12 it is your job to determine credibility of the witnesses
13 who have testified here.

14 How do you go about that? Perhaps the
15 best answer is to say that you determine the truthfulness or
16 accuracy or weight to be given to a witness' testimony
17 in the same way you determine questions in your own personal
18 affairs. We are all constantly called upon from day
19 to day to determine how much confidence we place in
20 the statements people make to us. The truthfulness or
21 dependability of a witness as that of any person can be
22 determined by his demeanor, his look, his relationship to
23 the case and to the parties, the possibility of his being
24 biased or partial or of his not being biased or partial;
25 the stake he may have in the outcome of the case, the

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2 reasonableness or unreasonableness of his statement. The
3 strength or weakness of his recollection and the extent
4 to which what he has said has either been corroborated
5 or contradicted by testimony of other witnesses or by
6 exhibits or stipulations.

7 Of course, the witness' testimony may be
8 impeached by his own prior inconsistent statement unless
9 there is some explanation for the inconsistency. In
10 ordinary life when you need to determine the truthfulness of
11 a person, you ask yourselves, don't you, as you did here,
12 did he impress you, did his version seem straightforward
13 and candid, did he seem to be trying to hide some of the
14 facts, did he have any motive to testify falsely or no
15 motive.

16 The ultimate question for you to determine
17 and to decide on in passing upon the credibility of a witness
18 is whether you believe he told the truth. It is for jurors
19 alone to determine the weight to be given to the testimony
20 of any witness and in making these suggestions which I
21 have given you as guidelines, I am not attempting to decide
22 that question for you. If you find that any witness
23 has wilfully testified falsely as to any material, that
24 means significant or important matter, you may reject the
25 entire testimony of that witness, or you may accept such

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2 portion of it as you believe and reject the rest.

3 A few rules apply particularly to this case
4 or a case of this kind: In judging the credibility of any
5 witness, you may consider whether his testimony was inspired
6 by motive of self-interest, personal advantage, so that
7 he gave false or colored testimony and whether the testimony
8 of such a person was a fabrication, perhaps, induced by a
9 belief or a hope or an expectation that he would receive
10 favorable consideration such as not being indicted or
11 charged or imprisoned, as has been suggested here.

12 As you know, the defendants contend that such
13 motives are true of some of the witnesses here. The Govern-
14 ment has pointed out to you why they believe that should
15 not interfere with your accepting the truth of
16 the witness' testimony.

17 In the prosecution of crime, the Government is
18 often called upon to use witnesses who are accomplices
19 in the commission of the crime itself. This is particularly
20 so in cases of conspiracy. Conspirators do not publicly
21 proclaim their intentions or operate openly under normal
22 circumstances and it often happens that only a member of
23 a conspiracy has the evidence which is relevant to and
24 important to the case.

25 However, experience has shown that accomplices

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2 may be motivated to place the blame on other than them-
3 selves. Accordingly, an accomplice's testimony, and there
4 have been accomplices who have testified here, Mr. Rossi,
5 Mr. Mengrone, Mr. Pearson, should be carefully scrutinized
6 and checked with the facts which you find to exist in
7 this case, and against the evidence which may corroborate,
8 then you should give the testimony of such accomplice such
9 value or weight as you deem proper under the circumstances.

10 You should also know that a witness' testimony
11 may be impeached or discredited if he has been convicted
12 of a felony, that is, his conviction is a fact you may
13 take into consideration in determining his credibility.

14 Ladies and gentlemen, one of the points also
15 made here, of course, has to do with the extent to which Mr.
16 Rossi may or may not receive a prison sentence. I will only
17 say further on that point, that I have told you before and
18 it remains the fact, that that decision will be made by a
19 Judge of this Court. However, it is true and you may
20 take into consideration that the United States Attorney's
21 office is free to bring to the attention of that Judge and
22 it has said it already, the extent of Mr. Rossi's cooperation
23 in this and other cases.

24 It is, of course, proper for you to consider the
25 interest a witness has in the outcome of the case. That

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is true whether it be a Government witness or whether he is a defendant witness as in the case of Mr. DiSalvo.

I do not mean to suggest, of course, that a witness who has an interest in the outcome of the case may not be telling the truth in spite of his interest, but I do point out to you that you have a right to consider that fact in determining what weight to give to his testimony.

A final rule as to credibility: There has been testimony here to the previous good character of Mr. DiSalvo. You should consider such evidence of character together with all the other facts and evidence in the case in determining his guilt or innocence here. Evidence of his good character may in itself create a reasonable doubt where without such evidence, no reasonable doubt might have existed.

But if on all the evidence you are satisfied beyond a reasonable doubt that a defendant is guilty, a showing that he previously enjoyed a reputation of good character would not justify or excuse the offense and you should not acquit any defendant merely because you believe he is a person with good repute. The guilt or innocence of every defendant is for you and you alone to determine.

Ladies and gentlemen, as I have said, your determination in this case must be based upon the evidence.

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2 There are two types of evidence of which we
3 normally speak. I am sure you have heard them referred to
4 often. One is called direct evidence, that is, the evidence
5 of an eye witness or an ear witness. I have heard it,
6 such a witness would say, or I have seen it. The other is
7 more indirect generally called circumstantial evidence.
8 That is defined as the proof of a chain of events or
9 circumstances which points itself to the existence or non-
10 existence of facts as to which there was no eye witness.
11 The law makes no distinction as to the importance or weight
12 of circumstantial as distinct from direct evidence. It
13 requires only that you the jury find the facts in accordance
14 with the evidence of the case, both direct and circum-
15 stantial, beyond a reasonable doubt, of course.

16 An example, by the way, of a difference between
17 circumstantial and direct evidence which we often give to
18 jurors, but which is vivid, I think, is as follows:

19 If you look out the window, not yesterday, but the
20 day before and noticed that it was raining or snowing,
21 that would be direct evidence of the fact. On the other
22 hand, if all the blinds were drawn here as they often
23 have been, and somebody came through the door of the court-
24 room with a dripping umbrella, that would be pretty good
25 circumstantial evidence that it was raining or snowing out-

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2 side. You wouldn't have seen it with your own eyes
3 but you would have the right to infer seeing a man come
4 from the door with a dripping umbrella that it was raining
5 outside. To be sure, he might have been standing in
6 the shower in one of the rooms of this building that has a
7 shower, but that would be a little unlikely, and the other
8 inference would be the more normal one.

9 Members of the jury, both the United States
10 Attorney and defense counsel have, from time to time, through
11 out the course of the trial, objected to the introduction
12 of evidence and addressed arguments to the bench. It
13 is the duty of attorneys on both sides to make such objec-
14 tions when the attorney believes that the other side is
15 proposing to put in evidence or ask questions about some-
16 thing that is not properly admissible. I want you to
17 understand when I have sustained an objection to a question
18 or when I have overruled an objection to a question, that
19 doesn't indicate any attitude of mine as to how this
20 case should be decided. What it means, and the only thing
21 it means, is that if I have sustained an objection or told you
22 to disregard information, you are to disregard the question
23 or the answer, as the case may be, and where I have ruled
24 against a question, not to try and figure out what a witness
25 might have answered if he had been allowed to do so.

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2 Now ladies and gentlemen, I have instructed
3 you as to the manner in which you should consider the
4 evidence and since you have heard a very long summary of
5 the respective contentions of the lawyers, I will turn
6 to the substance of the charges against the defendants.

7 The indictment, as you know, contains a number
8 of counts. I think for the defendants here on trial,
9 we are dealing with Counts 1, Counts 2 through 6 or 7, and
10 Count 11. Each count, as I mentioned before, is a
11 separate crime and each of them must be considered separately
12 by the jury as to each defendant who is named in each
13 count. It is going to be a job, ladies and gentlemen, but o
14 course you will be able to do your work more clearly by
15 approaching it separately with regard to each person also.

16 This is a good time for me to tell you that to
17 assist you in doing your job, I have prepared what is
18 known as a verdict list for each defendant so when you have
19 reached your conclusion, your forelady can simply fill in
20 the blank of not guilty or guilty as to each charge as to
21 each defendant, and you will have recorded your verdict.

22 I believe it will help you out.

23 As you know, the indictment names twelve defend-
24 ants in all. Only six of whom are on trial here, and the
25 other six need not be of concern to you except that in

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2 considering the guilt or innocence of those who are on
3 trial, you may have to determine the nature of the par-
4 ticipation, if any, of others who have been named as co-
5 conspirators or defendants. YOU have heard other co-
6 conspirators and defendants named in the course of this trial
7 and to that extent, you may have to consider them.

8 Having stated these preliminaries, let me
9 come specifically to the charges. There really are two
10 groups of charges. Count 1 constitutes what is known as
11 the conspiracy count. It charges that the defendants
12 conspired to violate the law as to the control of
13 narcotics. All the other counts are what we call sub-
14 stantive counts and they charge one or more defendants,
15 as you will see from the indictment itself, with actually
16 violating the laws relating to the control of narcotic
17 substances on a particular day.

18 I will deal first with the conspiracy charge
19 both because it comes first and because the discussion may
20 take a little bit longer.

21 Before you may convict any defendant under the
22 conspiracy charge, you must find that the Government has
23 proven beyond a reasonable doubt all of the following
24 three elements, all of them.

25 First, you must find the existence of a conspiracy

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2 charged. Obviously nobody can be guilty of belonging
3 to a conspiracy unless there was a conspiracy as charged
4 in the indictment.

5 Second, you must find that the defendant whose
6 guilt or innocence you are considering at that time knowingly
7 and wilfully joined the conspiracy.

8 Third, you must find that at least one of the
9 conspirators committed at least one of the so-called overt
10 acts mentioned in the indictment and which I will tell you
11 more about shortly.

12 If the Government fails to establish any of
13 those essential elements beyond a reasonable doubt as to
14 any defendant, then you must acquit that defendant on
15 Count 1. If it succeeds in proving all of those things
16 as to that defendant, then of course it is your duty to
17 convict that defendant on Count 1.

18 As I have said, the gist of the crime of con-
19 spiracy is an unlawful agreement to violate the law.

20 Ladies and gentlemen, I get worried sometimes
21 about the instructions which we Judges give about conspiracy,
22 because I think sometimes we instruct you to a fare-thee-well,
23 and I hope I won't do that today. There are a lot of
24 things that it is important for you to know, but what you
25 need to remember as your mooring for the discussion about

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2 conspiracy is that a conspiracy is nothing more nor less
3 than an agreement of two or more people, of course an
4 intentional and knowing agreement to violate the law, and
5 if you bear that in mind, I think all of the other aspects
6 of the instructions will be much clearer to you.

7 Whether or not the defendant or defendants accom-
8 plished what it is alleged that he and the others con-
9 spired to do is immaterial to the question of guilt or
10 innocence in regard to a conspiracy charged. A conspiracy
11 need not be successful in order to constitute an illegal
12 act or crime. It is the very conspiracy or agreement it-
13 self, together with at least the commission of one overt
14 act that creates the crime.

15 Since a conspiracy is by definition an agree-
16 ment between or among people to violate the law, each
17 member, once you are satisfied that somebody became a member
18 of the conspiracy, becomes the agent of every other member.

19 I want to comment on that point: You may
20 remember that early in the trial and during the course of
21 the trial I have several times explained to you that it was
22 not always possible to put the evidence in any particular
23 order that might be ideal and that some evidence might be
24 put in as to a statement with regard to Defendant X or
25 by Defendant X which might apply to Defendant Y, but that

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2 it could only be applied to Defendant Y if you found on
3 independent evidence against Defendant Y that he, indeed,
4 was a member of the conspiracy.

5 I want to remind you of that instruction
6 again and I will shortly give you an instruction as to
7 how you are to determine whether a defendant should be
8 adjudged to have been a member of the conspiracy or not.

9 Coming back now to the nature of the conspiracy
10 itself, to establish the existence of a conspiracy, the
11 Government is not required, of course, to show that two
12 or more people sat around a table and entered into a solemn
13 compact orally or in writing stating that they were forming
14 a conspiracy to violate the law. Common sense makes
15 it clear that when people decide to enter into a criminal
16 conspiracy, they are not going to announce it publicly.

17 It is sufficient if the Government establishes
18 to your satisfaction beyond a reasonable doubt that two
19 or more people named in this indictment as defendants or
20 as co-conspirators, came to a common understanding to violate
21 the law, in this case, of course, with regard to the control
22 of narcotics. Particular language or specific words
23 aren't required to indicate attachment to a conspiracy,
24 nor is it required that you find that all of the conspirators
25 alleged in the indictment joined the conspiracy in order

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2 to find that the conspiracy existed, but obviously you
3 must find that at least two people did, or you can't have
4 a conspiracy.

5 The offense of conspiracy is complete when the
6 unlawful agreement is made and any single overt act to effect
7 the object of the conspiracy is thereafter committed by at
8 least one of the conspirators.

9 Of course, proof that the conspiracy actually
10 has been accomplished may be the most persuasive evidence
11 that the conspiracy actually existed. If you believe that
12 the venture alleged was successful here, the success itself
13 would be very good proof of the existence of a conspiracy.

14 If upon consideration of the evidence you
15 find beyond a reasonable doubt that the minds of at least
16 two of the alleged co-conspirators met in an understanding
17 and that they agreed to work together in furtherance of
18 the unlawful scheme, then proof of the existence of the
19 conspiracy is complete. That is the first element of the
20 conspiracy.

21 Now, some of the defendants here have contended
22 that the Government's proof fails to show the existence of
23 the one overall conspiracy which this indictment charges.
24 They argue, of course, that no conspiracy existed, but
25 they further argue that if in fact one did exist, then at

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1 least the evidence shows several separate and independent
2 conspiracies involving various groups of the defendants
3 and not the one single conspiracy charged here in the
4 indictment.
5

6 If the Government merely proved several separate
7 conspiracies, that would not constitute the proof required
8 to establish the charge here in the indictment unless one
9 of the several conspiracies which it proved was charged.

10 In determining whether the conspiracy charged
11 in the indictment existed, you may consider what the
12 evidence shows as to change of personnel and activity and
13 you may consider this in determining whether there are
14 several conspiracies and not the one charged.

15 You may find a single conspiracy even though
16 there were changes in personnel or activities provided that
17 you find that some of the conspirators continued throughout
18 the life of the conspiracy and that the purpose of the
19 conspiracy continued to be those charged in the indictment.

20 The fact that the parties are not always identi-
21 cal doesn't necessarily mean there are separate conspiracies.
22 In other words, if at all times the alleged conspiracy
23 had the same overall primary purpose and the same
24 nucleus of participants, the conspiracy would be the same
25 basic scheme even though in the course of its operation,

rkb-25

2235

additional people joined in and performed additional functions to carry out the scheme while others were not active or perhaps had terminated their relationships.

Even if you find that the Government has proven the single overall conspiracy specified in the indictment, you must then determine, and this is the second element, whether any particular defendant on trial before you became a member of that conspiracy knowingly and wilfully in order to find that defendant guilty.

Let's talk about this second element, that is, membership in the conspiracy, individual membership in the conspiracy.

You can't find any of the gentlemen here on trial guilty of Count 1 unless you find that he knowingly and wilfully joined the conspiracy.

Let's be more specific. If you conclude that the conspiracy charged in the indictment existed, you must next determine whether the defendant whose case you are considering participated in the conspiracy with knowledge of its unlawful purpose and in furtherance of its unlawful objectives.

To find his membership in the conspiracy, you must find that he joined it knowingly and he intentionally participated.

Thus, a mere knowledge by any defendant of the

1 rkb-26

2 existence of a conspiracy or of any illegal act on the part
3 of another alleged co-conspirator, or mere association
4 with one or more of the co-conspirators, isn't sufficient
5 in itself to establish a conspiracy.

6 The Government must establish beyond a
7 reasonable doubt that the defendant under question was aware
8 of the basic purpose and objects of the conspiracy, that
9 he entered it with the specific intent of violating the law.

10
11 (continued on next page.)
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bsbr 1

Now, whether or not a particular defendant was a member of the conspiracy or joined the conspiracy must be determined, as I have said before, on the evidence as to his own actions and not those of anyone else.

The guilt of a co-conspirator, if you find that there was a conspiracy and he joined it, is not governed by the extent or duration of his participation in the conspiracy or whether he had knowledge of all of its operations. Even if one joined the conspiracy after it was formed and was engaged in it to a degree more limited than that of some other co-conspirator, he may still be found guilty of conspiracy.

Each member of the conspiracy may, and often does, perform separate and distinct acts at separate and distinct times from others. Some conspirators obviously play more important roles than others, but it is not required to the proof of the element we have been talking about that a person be a member of the conspiracy from its very start or that he do everything that was done within the conspiracy. He may join it at any point during its existence and then be held responsible for all that has been done before he joined and all that would be done by the conspirators in pursuance of the conspiracy thereafter and while he remains a member.

1 bsbr 2

2 Thus, if you do find that a given defendant
3 has joined the conspiracy knowingly and wilfully, then,
4 however limited his role in furthering the objectives of
5 the conspiracy, he may be held, and must be held, respon-
6 sible for all that was done in furtherance before he
7 joined or after he became a member.

8 Ladies and gentlemen, we come now to the last
9 element with regard to the conspiracy charge, and that is
10 the question of overt acts.

11 Assuming that you found that the conspiracy
12 existed and that the defendant whose case you are consider-
13 ing was a member of the conspiracy, then the question
14 arises whether any of the co-conspirators committed an
15 overt act as charged in the indictment.

16 The purpose of requiring proof of an overt
17 act is not inconsequential. It is that while parties
18 may conspire and agree to violate the law they could and
19 they do change their minds and do nothing to carry out
20 that plan -- that is a possibility.

21 In that case, no crime would be committed.
22 You and I can sit here and even plan to blow up the
23 capitol of the United States and talk about it for days
24 on end, but if we never do anything about it that is not
25 a crime. The moment, however, that one of us does something

1 bsbr 3

2 in furtherance of the crime, or the agreement, then the
3 crime of conspiracy is completed.

4 It is true that overt acts listed in the
5 indictment, generally speaking, don't have to be criminal
6 themselves, although they often are. That does not mean,
7 however, that an action taken may not have sufficient
8 weight to be in furtherance of a crime. If I phone
9 you in connection with our alleged plan to blow up the
10 capitol of the United States and suggest that we meet at
11 a certain time and place, while it may be perfectly
12 normal and not criminal to telephone people, that would
13 be an act in furtherance of the conspiracy.

14 An overt act need not be a criminal act,
15 nor the very crime which is the subject of the conspiracy,
16 nor is the government required to prove that each member
17 of the conspiracy committed or participated in any
18 particular overt act, since the act of any one conspirator,
19 done in furtherance of the conspiracy, becomes the act
20 of all other members of the conspiracy.

21 Moreover, the government is not required
22 to prove each of the overt acts. Indeed, it is sufficient
23 if it proves the commission of only one of the overt acts
24 by one of the co-conspirators.

25 I am going to furnish you with a copy

bsbr 4

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of the revised indictment, that is, revised to include only the counts that you are required to consider, and let me read you a few of the overt acts so you know what I am talking about.

For example, overt act No. 1, although it won't apply here because it applies to the case -- of Freddie Blase, who is no longer on trial before you, and it says in or about December, 1971, defendant Freddie Blase met co-conspirator Albert Rossi in New York.

Ordinarily meeting a person is not a crime, but if you meet somebody, in furtherance of the conspiracy then it is a crime. that is what I have been talking to you about.

Ladies and gentlemen, while the indictment before you charges that the conspiracy existed from on or about the first day of January, 1971 through the 30th of December, 1973, it is not essential that the government prove that the conspiracy started and ended precisely on the specified dates. It is sufficient if you find that in fact a conspiracy was formed and existed for sometime within the period set forth within the indictment, and that at least one of the overt acts was committed in furtherance of the conspiracy during that period.

1 bsbr 5

2 A conspiracy, once formed, is presumed to
3 have continued until its object is accomplished, or until
4 there is an affirmative act of termination by its members,
5 or it is otherwise clearly terminated, as, for example,
6 by arrest of the defendants.

7 So, too, on the other side of the coin, once
8 a person is found to be a member of a conspiracy, he is
9 presumed to continue his membership until the termination
10 of the conspiracy, unless there is affirmative proof
11 of his withdrawal or his disassociation from it.

12 Now, ladies and gentlemen, I have finished
13 instructing you with regard to the conspiracy count. We
14 come next to the law with regard to all the remaining counts
15 of the indictment. Those are Counts 2 through 7 and
16 Count 11.

17 The statute or law passed by Congress, which
18 the defendants are alleged to have violated in regard to
19 those so-called substantive counts is Section 841 of Title 21
20 of the United States Code, which reads in pertinent part --
21 that is, the part we are concerned with -- as follows:

22 It shall be unlawful for any person knowingly or
23 intentionally to distribute or to possess with intention
24 to distribute a controlled substance.

25 Before you can find any defendant on trial

1 bsbr 6

2 guilty of the crimes charged in Counts 2 through 7, and
3 Count 11 of the indictment, you must find that the
4 government has proven as to that defendant beyond a
5 reasonable doubt all of the following three elements:

6 First, that on or about the dates set forth
7 in each count as to that defendant, that defendant dis-
8 tributed or possessed with intention to distribute,
9 a narcotic drug controlled substance;

10 Second, that he did so unlawfully, wilfully
11 and knowingly; and,

12 Third, that the substance which he possessed
13 was in fact a narcotic drug controlled substance.

14 I want to say something a little further about
15 these elements. The first element of the offense is to
16 distribute a drug or to possess it with intent to dis-
17 tribute it.

18 What do those phrases mean? Well, the word
19 "distribute" means an actual or a constructive or attempted
20 transfer.

21 The word "possess", has its common
22 everyday meaning, that is, to have something within your
23 control -- it need not necessarily mean to have in your
24 hand or pocket. Control may be demonstrated by the
25 existence of a working relationship between the person having

1 bsbr 7

2 the control and the person who has actual physical custody.

3 The word "intent," of course, refers to a
4 person's state of mind.

5 So putting it all together, the term "possess
6 with intent to distribute," means to control an item with
7 the purpose of transferring it.

8 If you find beyond a reasonable doubt that
9 a defendant actually made a transfer of a narcotic drug
10 controlled substance that finding would, of course, satisfy
11 this requirement of the crime. Moreover, if the proof
12 shows that a defendant merely possessed a narcotic drug
13 controlled substance, but possessed it wiht the intent
14 to distribute it, that that finding would also satisfy
15 the requirements of this element of the offense.

16 In this respect, I direct your attention to
17 Count 11, which, when you come to it, you will find
18 charges only possession with intention to distribute
19 and not actual distribution.

20 The second element of the offense charges,
21 of course, and not surprisingly, that a defendant cannot
22 be found guilty unless you find that his distribution
23 or his possession with intention to distribute was
24 an unlawful and wilful and knowing possession. Those
25 words mean that you must be satisfied beyond a reasonable

1 bsbr 8

2244

2 doubt that the defendant in question knew what he was
3 doing; he did it deliberately and voluntarily and not
4 mistakenly or accidentally or as a result of some coercion.

5 For example, if you sold somebody some packets
6 of what you thought were granulated sugar and they turned
7 out to be cocaine or heroin, you obviously would not be
8 guilty of a crime even though you would literally have
9 distributed a narcotic drug controlled substance.

10 Of course, it is not necessary that a
11 defendant knew that he was violating any particular law.
12 It is sufficient if you are convinced beyond a reasonable
13 doubt that he was aware of the general unlawful nature
14 of his acts.

15 As to the third element, the substantive count
16 charged that the narcotic drug controlled substance in this
17 case was either heroin or cocaine. I instruct you as
18 a matter of law that heroin and cocaine are narcotic drug
19 controlled substances. You, however, must still find
20 beyond a reasonable doubt that the substance in question
21 in the counts charged was either heroin or cocaine.

22 While you must be convinced beyond a reasonable
23 doubt that the substance possessed or distributed was
24 in fact a narcotic drug controlled substance, it is not
25 necessary that this be proved by direct evidence. Just as

1 bsbr 9

2 with any other component of a crime, the existence of and
3 dealing in narcotics may be proved by circumstantial evi-
4 dence. There need not be a sample placed before you,
5 although there have been some samples placed before you in
6 this case, nor need there be testimony by a qualified
7 chemist, as long as the evidence furnishes grounds for
8 inferring that the material in question is narcotics.

9 There are several categories of circumstantial
10 evidence which you may consider in determining whether
11 a given defendant has possessed a narcotic drug, as charged
12 in the substantive counts.

13 For example, testimony that someone had per-
14 sonally tested samples of the powder from each shipment,
15 or, the secrecy and deviousness with which the transactions
16 were handled; as, for example, code words, if you find that
17 they were used, or concealment of the substance, and so on,
18 or the fact that a substance in which a defendant was dealing
19 with a white powder, since heroin and cocaine -- I will
20 take judicial notice of the fact -- are white powders,
21 normally; or the high price paid in cash for the substance;
22 or the lack of complaint on the part of the purchasers; or,
23 finally, that the white powder in evidence, which the --
24 here it was agreed it was identified by a United States
25 Chemist, or would have been identified by him if he had

1 bsbr 10

2 testified, as heroin hydrochloride.

3 There is another way, another basis beyond what
4 I have described, upon which you may find a defendant guilty
5 even though he didn't literally commit the act himself.

6 This refers, of course, only to those substantive counts
7 in which more than one defendant has been named. You will
8 understand in a moment. Any person -- I am now telling
9 you what the law is -- who commits an act in violation of
10 criminal statute or law passed by Congress, of course,
11 commits a crime. But it is also a crime not only to
12 commit the illegal act yourself, but to aid or abet someone
13 else to commit a crime.

14 Accordingly, if you should find beyond a
15 reasonable doubt that any of the defendants named in the
16 substantive count, or any of their co-conspirators, committed
17 the crime charged, and that another defendant aided or
18 abetted that defendant, you would have a sufficient basis
19 for finding the guilt of the second person as to the sub-
20 stantive count in which he is charged.

21 What does it mean to aid and abet? To find
22 that a defendant aided or abetted another to commit a
23 crime you must find that the allegedly aiding and abetting
24 defendant in some positive, clear way associated himself
25 with the crime; that he participated in it not just casually

1 bsbr 11

2 but as something he really wished to bring about.

3 In other words, you must find that he sought
4 by his actions to make the venture succeed.

5 Thus, in order to find a defendant guilty of
6 aiding and abetting someone else, you must, of course,
7 find something much more than mere knowledge on his part
8 that a crime was being committed, for a mere spectator
9 at a crime is not a participant. However unfortunate this
10 conduct may be, if you stood watching someone else hold up a
11 third person with a gun, you may not be by that alone aiding
12 and abetting that man. In order to convict it is not
13 necessary, however, that you find that the defendant himself
14 did the acts.

15 Ladies and gentlemen, in every criminal case
16 there is a fundamental rule which every defendant has the
17 right to rely on. That is the rule that the defendant
18 may not be compelled to take the witness stand or offer
19 any testimony at all. Pleading not guilty a defendant
20 has in effect denied every material issue against him
21 stated in the indictment. It is the prosecution which
22 must prove him guilty, as I have stated, and he cannot
23 be required to testify or to disprove anything.

24 Any accused person has a right to stand
25 mute. The fact that he does not take the stand, as the

1 bsbr 12

2 defendnats in this case, with the exception of defendant
3 DiSalvo, have not, may not be considered by any of you
4 as any indication of guilt as to them, or any admission on
5 their part, or an inference of guilt.

6 That is just not an artificial rule. If you
7 were accused of crime you would feel there is no reason
8 for you to prove yourself innocent. However thoroughly
9 you would be convinced of your innocence, or knew of it,
10 you would understand that it is the government's job
11 to prove you guilty, if it could.

12 Ladies and gentlemen, I have come nearly to
13 the end of my formal instructions, but in a sense the most
14 important part of what I have to say is coming now.
15 That is with regard to your role as jurors, because it is
16 for you and you alone to decide whether any of the de-
17 fendants on trial is guilty on any of the counts charged.

18 I know that you will try the issues that have
19 been presented to you in accordance with the serious oath
20 that you took as jurors in which you promised that you would
21 well and truly try the issues joined in this case, and
22 as you probably remember it from my repeating it time after
23 time when I was impaneling the jury, based solely on the
24 evidence which you have had put before you in this trial,
25 and the instructions as to the law which I am now giving

1 bsbr 13

2 you, render a true and just verdict.

3 I like that phrase "well and truly try the
4 issues joined in this case." It goes back a thousand
5 years and its old fashioned flavor should mean something
6 to you and remind you of the hundreds of thousands of
7 juries who have performed this function before you and that
8 you must a true verdict render based upon the evidence
9 you have heard in this court and the exhibits.

10 In order for you to reach a verdict, either
11 not guilty or guilty, as to any defendant on any count,
12 your verdict must, of course, be unanimous; that is,
13 everybody must agree on that particular verdict. In spite
14 of the requirement of unanimity, each of you must decide
15 each count as to each defendant individually, in accordance
16 with your own conscience, but only after deliberation with
17 your fellow jurors to determine whether you believe a
18 just verdict is being reached.

19 You should not hesitate to change your mind
20 if you become convinced that your original view of the
21 case did not accord with the facts or the law or whatever
22 it is; on the other hand, you should not change your view
23 just for the purpose of reaching a verdict as a matter of
24 convenience.

25 I really have not any reason to believe that

1 bsbr 14

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2 this jury won't be able to reach a unanimous verdict one
3 way or the other as to the matters put before it.

4 To sum up, if you find that there is a reasonable
5 doubt that the law has been violated as to any defendant on
6 any count, you should not hesitate for any reason to acquit
7 that defendant on that count. On the other hand, if you
8 find that the law has been violated and the government has
9 proven it beyond a reasonable doubt as charged, you should
10 not hesitate, because of sympathy or for any other reason,
11 to render a verdict of guilt as to that defendant on that
12 count.

13 Nothing I have said in these instructions --
14 and I stress this -- is intended to indicate any view of
15 mine towards how the various issues put before you should
16 be decided.

17 Ladies and gentlemen, according to custom,
18 Juror No. 1 normally acts as foreman of the jury in this
19 court, and I am going to ask Mrs. Frackel to do so in
20 this case. That does not mean that she will have any
21 authority that the rest of you don't have, but simply
22 that she will assist in seeing to it that your deliberations
23 are orderly and that all communications to the Court are
24 properly made.

25 You will remember that you have the right at

1 bsbr 15

2251

2 any time, ladies and gentlemen, to ask for the exhibits,
3 or any one of them; you have the right to have any of the
4 testimony read to you or any of the tape exhibits played
5 to you: you have the right to put any questions that you
6 want to the Court.

7 If you do wish to have any testimony read
8 back to you, or any exhibit, it will be very helpful if
9 you will be as specific as possible about the material that
10 you are interested in so that we can be assisted in locating
11 that material in advance.

12 Of course, the way you get in touch with the
13 Court will be to give a note to the marshal who will be
14 standing outside the door of your juryroom. I am neither
15 encouraging or discouraging your asking for anything,
16 but certainly you have the right to have anything you
17 wish.

18 It is not my practice, ladies and gentlemen,
19 to send in all the exhibits, plunk them down on the jury
20 room table and leave them there. However, if you prefer,
21 when you start your deliberations, to have all the exhibits
22 before you, all you have to do is write a note saying so.
23 If, on the other hand, you just want a particular exhibit,
24 you can ask for that.

25 I will also say, because sometimes a jury

1 bsbr 16

2 asks, that the Judge's charge will not be sent into you.
3 I hope it has been clear, but if it has not been clear
4 then I am afraid it would be less clear if I sent it in to
5 you and you all tried by yourselves to figure out what it
6 meant.

7 If you do have any questions about what my
8 charge is, or what the law is, simply write me a note saying
9 that you have a question and come on out and tell me what
10 your question is, or specify the question in your note, and
11 it will be answered.

12 Ladies and gentlemen, I have now come to the
13 end of my instructions. I will meet briefly with counsel
14 in the robing room to see whether they think anything needs
15 to be clarified, and we will return to you in a few minutes
16 and you will then begin to deliberate the case.

17 Will you please wait in the jury box while
18 we discuss the matter.

19 (In the robing room.)

20 THE COURT: Mr. Amorosa?

21 MR. AMOROSA: Judge, from our point of view
22 there is one thing that we would like your Honor to charge,
23 and I don't believe that you said it to the jury, although
24 the conspiracy charge was excellent.

25 That was that to find the defendants guilty the

176 (E2)

THE PROSECUTION CONTENDS THAT THERE WAS
AN OUTGOING CALL TO 212-822-8947 FROM
PETER MENGRONE TO ANGELO RICCO ON
OCTOBER 8, 1973, AT 5:37 P.M.

Conversation 2190

MENGRONE : Hello, can I buy a Renzo Original?

UNK MALE : Can you buy a Renzo Original?

MENGRONE : Yes.

UNK MALE : Yeah.

MENGRONE : Hi sweetie.

UNK MALE : What's doin baby?

MENGRONE : Oh, I'm fucken wrecked, ha, ha that Green Bay given five yesterday
so that gives ya an idea. Ha. Ha.

UNK MALE : You pick the winners.

MENGRONE : Oh please, thirty-eight nothin at the half

(Pause)

ANGELO RICCO: Hello.

MENGRONE : Inaudible.

ANGELO RICCO: What is it?

MENGRONE : That's funny; well my best of the day was Cincinnati.

ANGELO RICCO: Ha, ha, ha,

MENGRONE : Ha, ha, ha. We won the fight and lost the game.

ANGELO RICCO: Uh huh.

MENGRONE : I don't believe it, the Mets scored nine runs, I'm in a fucken
state of shock.

ANGELO RICCO: Yeah, an almost forfeited the game.

MENGRONE : Huh.

PAUSE

ANGELO RICCO: Maybe, yeah.

MENGRONE : OK, if ya can and he, he can reach me early.

ANGELO RICCO: Right.

MENGRONE : I'll give ya a number where I'll be. This way it'll make it easier, cause a he always come out a 11:30 or 12 o'clock and I can't get untracked at that time.

ANGELO RICCO: Alright.

MENGRONE : Ah, don't move. Ya standin there.

ANGELO RICCO: Uh huh.

MENGRONE : Ya gotta pencil. Ah, the Villa Manera.

ANGELO RICCO: Alright.

MENGRONE : It's TAlmedge 4.

ANGELO RICCO: Uh huh.

MENGRONE : 5272. I gotta be there like from 9 to 11 before I come to see him.

ANGELO RICCO: Alright.

MENGRONE : But if he gets there early or somethin tell'm him to give me a call and see what the hell is goin on.

ANGELO RICCO: OK.

MENGRONE : And what you doin? Nothin else?

ANGELO RICCO: Nothin else, bubbie.

MENGRONE : What was your line tonight?

ANGELO RICCO: Huh, ah one and half.

- MACHINE TURNED OFF -

TAPE 43

The Prosecution contends that on October 8, 1973 at 6:05 P.M. there was an incoming call to (914) 688-0946 from Kenny O'Donnell to Peter Mengrone

Conversation #2192

K = O'Donnell

P = Mengrone

FIRST PART OF CONVERSATION NON PERT

K: Ah listen bubilly baby

P: What?

K: I just got called up right now.

P: Right.

K: From Gene, the man is all ready, this you know not not Charles this time, Charles (inaud)

P: The guy himself I know I just spoke to Angelo's, a to Angelo told him make sure his uncle gets me early, so I can go..

K: He wants to go he wanted to go last night now he wants to go tonight otherwise he says what are you people doing bull-shiting mor or what?

P: You just tell him to sit tight we'll go tonight.

K: I told him sit tight I says most likely we tomorrow be able to do something, he say whats this tomorrow bullshit you said a Thursday you were ready for me.

P: A you bring him the thing tonight, ok, that's the most important thing cause I don't pull these threes things and have this banana turn around it's not what he wants.

K: No, you make sure that he's got it tonight and an I'll make him have, be here with the money.

P: Well..

K: At my house.

P: Oh if I can do that I'll do that tonight.

K: But a he'd rather do it tonight he just told me says I'm
lookin to move tonight I says a call me back at seven
thirty I said I'd call you now find out whats going on

P: Ok well seven thirty's to early but you tell him...

K: Oh, I know that but I just told him to call me back so I'd
let him know what's going on.

P: I get back to you before ten o'clock.

K: Yeah.

P: Ok, cause I know I'll see him before then ok.

K: Alright.

P: If we could swing it tonight we go right tonigh one, two,
three....

K: Alright, how you like the Mets?

REST OF CONVERSATION NON PERT

#4
The Prosecution contends that on October 18, 1973 at 1:32 P.M. there was an outgoing call to (212) 679-3550 from Peter Mengrone to Anthony Ricco

Conversation #2508

FIRST PART OF CONVERSATION NOT PERT.

RICCO: Hello, Peter.

MENGRONE: Yeah, Boss.

RICCO: Whats a matter?

MENGRONE: Ah, you available tonight.

RICCO: Huh.

MENGRONE: You available tonight, at the club?

RICCO: Yeah, I could be there about eleven thirty.

MENGRONE: Is good I, Ah.

RICCO: Make it between eleven, eleven thirty, I don't wanna make it too late.

MENGRONE: Yeah, no I'll be there from eleven o'clock on, I spoke to somebody just now.

RICCO: Yeah.

MENGRONE: Ya know, and a gentleman's gonna buy three cars off me.

RICCO: Oh.

MENGRONE: An I wanna, I wanna make it a definite because a ya know I can't lose him, its the only shot I got, that's why I wanna talk ta you tonight.

RICCO: That's fantastic, what kind a cars he buy, which ones we sellin?

MENGRONE: Ah.

RICCO: Ones for the girl, the girl type or the boy?

Conv #2508 cont'd

MENGRONE: Ah the the boy type.

RICCO: Oh, alright.

MENGRONE: That's cause its a, when I tell ya you'll ah I gotta talk ta ya tonight, I'm excited because it's like the only chance I got in this world but ah.

RICCO: No what the hell, ar the hell, your in that business, that's the best thing in the world for ya.

MENGRONE: Yeah, ya know this other fella never reached ya ha

RICCO: Ha.

MENGRONE: The other gentleman never reached you?

RICCO: Na don't worry about him, I get him, don't worry about that shit, you don't have to worry about it, if they're not that interested in it don't be knockin yourself out about it.

MENGRONE: No, I, I, I'm getting the feeling that possibly ya know I'm, I'm in the trick bag an that like this little prick, a his father opened up a meat market, he's in the neighborhood all the time an he's walking around free an clear.

RICCO: Let him do it, don't worry about it, don't worry about it.

MENGRONE: OK, well I'll see ya a

RICCO: Just for (inaud)

MENGRONE: OK, eleven o'clock tonight, bye Boss.

RICCO: OK, bye bye.

END OF CONVERSATION

DFA:cr

The Prosecution Contends that
 on October 8, 1973 at 2:55 PM, there was
 An Incoming Call at 914-688-0946 From
Angela Ricco to Peter Mengrone

CONVERSATION 2133

Angelo Ricco: Whatta doin Pete?
 Mengrone: Uh
 Angelo Ricco: Uh
 Mengrone: What am I doin?
 Angelo Ricco: Yea
 Mengrone: Layin here, watchin the game
 Angelo Ricco: Uh huh
 Mengrone: What's up?
 Angelo Ricco: Goin to stop down?
 Mengrone: I was down Friday and down Saturday in
 case your interested.
 Angelo Ricco: Yea, and what happen?
 Mengrone: Your uncle wasn't even there either night.
 Angelo Ricco: Uh huh
 Mengrone: Right
 Angelo Ricco: Uh huh
 Mengrone: Oh
 Angelo Ricco: He was there Friday night
 Mengrone: The message was given to me outside the
 he hasn't been in, they don't expect
 him in.
 Angelo Ricco: He was late
 Mengrone: Uh
 Angelo Ricco: He got in late.

1 o'clock in the mornin

DFA:cr

Angelo Ricco About 1:30, 2 o'Clock....(inaudible)
Mangrone: Yeah, Na I'd spoken to him, its ah
Angelo Ricco Ah
Mengrone: Uh, Whatta ya doin?
Angelo Ricco Nothin
Mengrone: You bet the games or what?
Angelo Ricco: Yeah
Mengrone: You're losen I assume

Remainder of Conversation Non-Pertinent

TAP 5

THE PROSECUTION CONTENDS THAT ON SEPTEMBER 13, 1973, AT 7:52 PM THERE WAS AN INCOMING CALL TO 914-668-0946 from ALBERT ROSSI TO PETER MENGRONE.

CONVERSATION: #1123

MRS. MENGRONE: Hello.

ROSSI: Mrs. Mengrone, Tony again.

MRS. MENGRONE: Yes Tony.

ROSSI: Is Peter in?

MRS. MENGRONE: Did you speak to Pete before?

ROSSI: No I did't.

MRS. MENGRONE: Ok, hold on a minute.

PETE MENGRONE: Hello.

ROSSI: Hello Peter.

PETE MENGRONE: Yeah.

ROSSI: It's Albert it ain't Tony.

PETE MENGRONE: (a laugh).

ROSSI: I ain't given my right name out to nobody, ah alright listen to me. Ah the people in Brooklyn, my people in Brooklyn are getting in touch with Tony Biaciolle, and their getting in touch with Earl. This is being done right now, because er I got all the messages, I was supposed to have, ah and ah I was in the woodwork like I was supposed to be. Now I'm coming out of the woodwork, cause the people are making their move tonight. With Tony Bras., with you, with Ernie, and with ah Earl and not only that, but ah we are reaching Frank, your man Frank the one that supposedly kidnaped your son. Through this guy Bibbins, down Harlem and Frank is coming out of the woodwork too. Frank is gonna know exact details what went on cause only thing went on over here whatever fears you got, with Ernie or without. Called up now called up Madeline, so Ernie wasn't up there and actually nobody has heard from me for four or five days but there was a purpose, because this, this man in Brooklyn told me to stay in the woodwork, now I'm coming out of the woodwork.

PETE MENGRONE: You said that they set up the thing for eleven o'clock tonight at the club

ROSSI: At what club?

PETE MENGRONE: At nine.

ROSSI: I don't know nothin about that, till I hear from, I don't want to say his name, I don't know nothing about that.

PETE MENGRONE: Can I ask you a stupid question?

ROSSI: YEAH.

PETE MENGRONE: Just between you and I.

ROSSI: Yea.

PETE MENGRONE: Any particualr reason, why me instead, hey just give me the money let me get Frank off my back, and we go about our business.

ROSSI: No, no, no particualr reason why you any, any let me ask you something Peter. You, Ernie's get you over a barrel, because you, you supposedly owed him money from the tea and you supposedly made sneaky moves behind his back. Do you know anything you were doing with Ernie had something to do with me. Hey what is he fucking kidding me did I go out with fuckin guns in my hand, did he always get his fuckin end. In other words he make 18,000, you know what he told me when he come up my house, well thats my money and it's, it's a loan. Now, now the niggers, gave it to em as a loan, well then the other fuckin thing is a loan. If that's how fuckin technical the want to get Pete.

PETE MENGRONE: No (inaud)

ROSSI: Then all of a sudden, nobody else is involved over here, now Tony Braciolle involved over here. Which is another lie, which they tryin, you tryin to salvage the money. Youse are going to all sorts of people, I know, I even know, to the crew youse wnet on Kent Avenue, my man in Brooklyn knows about that. My man in Brooklyn told me Albert listen, over here, don't call nobody, don't go see nobody until I tell you, I went (inaud).

PETE MENGRONE: What crew on Kent Avenue?

ROSSI: I know the crew on Kent Avenue.

PETE MENGRONE: I wnet to Brociolle peroid.

ROSSI: Why did you go to Brociolla?

~~Because I use to do business with them?~~

PETE MENGRONE: No because its my only out, I happen to work for him now.

ROSSI: Oh now you work for Brociolla.

PETE MENGRONE: You know I've been bulling goods from him, what are we, what are we, what are we lying to each other now.

ROSSI: What the fuck you talking about? You told me, he was supposed to give you, did (stutter) when we made this when you made this deal with Ernie, when you him 26 something dollars or the 20 thousand three weeks ago Tony Braciolle was never involved over here The day that we made this deal Tony Brociolla still wasn't involved over here, now Tony Brociolla is involved over here.

PETE MENGRONE: He's always been involved over here.

ROSSI: (inaud) (shouts) he was never involved Peter, you could say that to him and.

PETE MENGRONE: Hey let me tell you listen.

ROSSI: You could say that.

PETE MENGRONE: Albert, Albert, quietly.

ROSSI: Then you turned around I see, I wanted to wack you that night Peter.

PETE MENGRONE: Your own men admitted it.

ROSSI: My own men admitted it.

PETE MENGRONE: Your crew told me they were gonna whack me and I see why me.

ROSSI: My crew told you they wanted to whack you.

PETE MENGRONE: Do yourself a favor you got a cousin named Bobby?

ROSSI: Yeah.

PETE MENGRONE: Ask him, I see me I come there like a lamb, I wanted to try to you know to me (inaud).

ROSSI: Let me tell you something Ernie, smellin like a fuckin lamb over here I ain't taking no weight for nobody, and nobodyies sayin that I the best artist I am this, I am that, because everybody's a fuckin juggler and everybody is a beat artist, in there own fuckin way. Tony as far as I am concerned Tony Brociolla isn't involved over here, when Tony Brociolla hears whose gonna call him from Brooklyn Tony Brociolla gonna set out of the picture, because Tony Brociolla wasn't involved over here on the initial move. The initial move was when I went to Florida four weeks' ago Ernie took the money off the guy, when I was supposed to give something to Ernie, my people didn't want to give it up to Ernie regardless whether anybody see ti was pan cake flour, it was a beat from the start. I am talking about a month ago, Ernie took that money off of them. You, Ernie's got something over your head, that your deathly afraid of Ernie, I don't care this is none of my fuckin business you understand me, what ever Ernie has over you, God Bless him um, I am concerned about now that Earl came in the picture. Tony Braciolla came in the picture, now other people are coming in the picture from Brooklyn, that will be involved tonight. I can't go to no sit downs, I don't do nothing till my people tell me what to do and my people are telling me what to do. They'er reaching out for Earl, and they're reachin out for Tony Brociolla and I think they got in touch with them al ready. I don't know I am where the people told me to be and I am waiting but as far as I am concerned this fuckin Ernie, you understand me and with you.

PETE MENGRONE: Let me ask you a question?

ROSSI: What.

PETE MENGRONE: You obviously have a beef between you and him.

ROSSI: Yeah, oh, yeah, I got a beef between me and Ernie.

PETE MENGRONE: Can I ask you a question?

ROSSI: What does that have to do with you, nothing.

PETE MENGRONE: Thank you, I just wanna know why the two of

ROSSI: Can I ask you a question, Peter, can I ask you a question.

PETE MENGRONE: (PRANTED)

ROSSI: Why does Ernie, why is, why is Ernie why (stutters) you.

PETE MENGRONE: You talk (inaud)

ROSSI: (inaud) Ernie told him when he come up his house, he worked for that money, it's a loan now from the nigger, I mean why is Ernie keeping all that money. Who fuckin, who's fuckin ta do you think that is, you wanna know something, you know what my beef is I owe the people down Florida 67 lods cause they went to Mott Street now to Ernie ain't involved with the people down Florida. The people are involved with me but Ernie who took stuff off of Ernie and who called, who gave, Ernie took a 185 pound of tea off me, and he cold it I didn't see the fuckin money.

PETE MENGRONE: Long story, long story short.

ROSSI: What?

PETE MENGRONE: You and I start out.

ROSSI: Right.

PETE MENGRONE: Met with my cousin.

ROSSI: Right.

PETE MENGRONE: We sat down to wack so we could earn.

ROSSI: Right, right thats what I wanted to do from the beginning Ernies tell em me that I am a fuckin (inaud) Ernie wants to call me a fucking (inaud) Ernie do have the fuckin balls that I got, he will have.

PETE MENGRONE: It's up to the two of you to goat it, why don't you.

ROSSI: It up to the two of us to go at it.

PETE MENGRONE: But why, but why do you involve me when you know damn well I am sittin, there with your guy tryin to make a move, tryin to earn.

ROSSI: Well

PETE MENGRONE: And in other words to spite.

ROSSI: (inaud) what are you doing about Ernie with this other money, your not doin nothin its a loan, am I right or wrong?

PETE MENGRONE: I'm responsible.

ROSSI: Your, in other words.

PETE MENGRONE: For that money to Frank Lucas, personally .

ROSSI: In other words Frank Lucas ain't worried about the other money but he's worried about the 30,000.

PETE MENGRONE: Because he took it from other people, but yet he's walking around with 300 somethin thousand and he can't replace the 30,000 from the 300.

PETE MENGRONE: It's their money and there accusing him of juggling it and then he came to me and accused me of juggling it and he saw I gave you the 20, I said you had to.

ROSSI: Eh wanna ask you.

PETE MENGRONE: Let me continue, when I said when I said to you, remember when I said to you.

ROSSI: Yeah.

PETE MENGRONE: About when he left me the money if you need a manita go buy it, right I spoke to you about manita.

ROSSI: Yeah.

PETE MENGRONE: You know I had to get it.

ROSSI: Yeah.

X PETE MENGRONE: Get the car for the girlfriend.

ROSSI: Yeah.

PETE MENGRONE: That man was left with me to do what I had to do, when ever he picked up the phone and said do it just like I was working for him.

ROSSI: Peter let me ask you something, remember you sold me a 1973 LTD.

PETE MENGRONE: Right.

ROSSI: You have a bad habit of printing things, I don't know if you recall this.

PETE MENGRONE: Go head.

ROSSI: You reprinted everything you wrote on the car two door, four door brown AM radio.

PETE MENGRONE: I'll save you the trouble.

ROSSI: Yeah.

PETE MENGRONE: Never walked out of the house never sent you a note, have no idea how it got on your door.

ROSSI: (inaud) supposing ah...

PETE MENGRONE: Well let me tell you something, I don't play.

ROSSI: Let me ask you something else, how did wise guys get involved over here, I mean I am glad they're involved now cause this is better to my benefit but how did wise guy get in involved.

PETE MENGRONE: Braciolle got involved for one reason.

ROSSI: Yeah.

PETE MENGRONE: I'm gonna lay it on ya, I'm sure you know about it.

ROSSI: Go ahead.

PETE MENGRONE: * I owe him he's got the club and he paying off my debts, I'm trying to work off my own arrangment with him peroid, ok, now when I'm just about to start with him and you know again you stop and think for two seconds you know put you're head together.

ROSSI: Yeah.

PETE MENGRONE: Ever. when I side which you I said I can pull from Tony.

ROSSI: Yeah, alright.

PETE MENGRONE: If you can move it we can split whatever we, I pull.

ROSSI: I can't, I can't do nothin with you, Peter cause your Ernie's partner.

PETE MENGRONE: I have (inaud)

ROSSI: You and Ernie got whatever youse got going together. Ernie, Ernie goes out with his girl, Ernie goes and buy furniture, Ernie goes and gets an apartment I gotta suffer, then Ernie wants to give my address up to people, he wants to give Louie LaPour address, you know, the way niggers can come and shoot me or anybody can once.

PETE MENGRONE: You ask Louie LaPour, and you ask the rest of them, I said totthem I'm giving up nobody to anybody.

ROSSI: Who gave up my address to Tony Brociolle?

PETE MENGRONE: I've always known your address.

ROSSI: Hah, bullshit, Peter.

PETE MENGRONE: Who drove you home Albert?

ROSSI: You didn't know my address.

PETE MENGRONE: Albert who drove you home the night from Vanecchia?

ROSSI: You didn't even no where we were Peter, believe me when I tell ya, you didn't know my exact address. Peter you got it off of Ernie, who knew where Ernie.

PETE MENGRONE: Who drove Ernie up the other night to your house.

ROSSI: I don't know, who did.

PETE MENGRONE: Take who was down stairs.

ROSSI: Then I, when he went upstairs to talk to you, supposedly when Jimmy.

ROSSI: Oh, you were there, oh I didn't know that oh.

PETE MENGRONE: Well was (inaud) I would have come up and talk to you like aman.

ROSSI: How come, how come Ernie don't want nobody want nobody know where he lives and where his house is.

PETE MENGRONE: No, but I would have walked up to ya like a man and said hey I'm in a jackpot.

ROSSI: Why didn't you.

PETE MENGRONE: Does it pay for you to try and bury me, does that make any sense at all.

ROSSI: Er .

PETE MENGRONE: Because this is what I can't understand you and I always friends.

ROSSI: Why, why why am I a beat art et why am I a bad mother fucker why ain't Ernie a bad mother fucker, why does Ernie involve his father now. What is Ernie running scared cause he's under pressure with the niggers, answer me what did Ernie involve his father for?

PETE MENGRONE: Well I gonna lay something on you ok.

ROSSI: Lay it on me Peter.

PETE MENGRONE: I was told this morning that somebody went to his father.

ROSSI: Yeah

PETE MENGRONE: He didn't the only thing he ever said is keep my father out of it.

ROSSI: But who?

PETE MENGRONE: I said I want everybody out of it, All I want is to give this guy his 30, walk away and say hey Frank.

ROSSI: Peter let me ask you something ok.

PETE MENGRONE: When somebody's like a raving maniac in a raving stage do they say things that night when Jimmy was in a raving stage. I say fuck it, lets whack Earl, lets whack Ernie lets whack Peter, I mean who went back an told (inaud).

PETE MENGRONE: But why would he wanna whack me? That's what I still tryin.

ROSSI: But I'm just saying, but whatever he said wouldn't get made. But he thought you realized that if anybody gets whacked over here, wives or families are gonna go to the law.

PETE MENGRONE: Thank you.

ROSSI: Don't you realize, that if you ever got whacked your wife is going... don't you realize if I ever whacked or I never come home, my wife as much as she ain't a rat, she loved me so much she gonna see my death avenged. She gonna go to somebody and so is my father. Don't you realize that I got insurance out that my mother and my father know everything. That if anything ever happens to me to go see people, and my wife knows this. I mean what do, but in other words.

PETE MENGRONE: Let me ask you a simple question.

ROSSI: Yeah.

PETE MENGRONE: A very simple question.

ROSSI: Yeah, theirs only one thing I could do over here.

PETE MENGRONE: No, no just simple question, you and I. You man enough no guns, no nothing, me and you meet. And just talk and work it out where in my end all I want to do is give this Yom his 30 and way go back to your people and stay the fuck away from me. On the other and I'll take care of him.

ROSSI: You gonna take of who Peter, Ernie?

PETE MENGRONE: I gave to worry about Ernie?

ROSSI: But why, but why is Ernie gotta get away with this, this is what I'm understanding, if he beats.

PETE MENGRONE: How can he get away with it.

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ROSSI: If he beat the niggers I want my end. Ernie owes, Ernie says I owe.

PETE MENGRONE: He didn't beat.

ROSSI: Ernie says I owe, he didn't beat em now its a loan, but he already spent the money. I mean I don't understand you Peter, either you love em, or your afraid of em, I don't care.

PETE MENGRONE: Because right now, you just use arithmetiv ok?

ROSSI: Yeah.

PETE MENGRONE: I'd rather chase him for 10 than, than have to chase 40 because I can take care of the yom with a car, I can get him Manila, I can pull a little stuff from you on consignment and work it off with him.

ROSSI: Yeah.

PETE MENGRONE: He is pressured for 30.

ROSSI: Let me ask you something.

PETE MENGRONE: They pulled big money to make a big move and the yom and I come out spellen like two rags. And the yom is going beserk, all I'm interested in if I need him if I said in fact I see you 10 o'clock tonight thats it. No pressure, you (inaud) to this point and I am saying to this now on your to this now on your kids as well as mine, Your name has not been given up, or anything else to the yom, and it won't be.

ROSSI: Why did tony Braciolle come to my house?

PETE MENGRONE: Why.

~~PETE MENGRONE~~ **ROSSI**: What do I have to do with Tony Braciolle?

PETE MENGRONE: Because if he, cause he figured if could sit and explain the trouble I was in that maybe you'd listen, maybe that you'd want to me because you thought Ernie was with me. All I am trying to do is resolve it. I spoke to Louie Guerra like a man, Louie LaPore, You.

ROSSI: (inaud)

PETE MENGRONE: Your cousin Bobby all of them they all said they'd speak to ya, I am talking to ya as a man. We got familes involved.

ROSSI: I am talking to you as a man, too Peter.

PETE MENGRONE: Ok (inaud)

ROSSI: I I er I er ain't worried about my family, when we say we got familes involved, nobodys toughing my family, believe me when I when I tell ya,

ROSSI: because if anybody goes to even even thinks of touching my family, I'll involve Mothers, Fathers and Aunts & Uncles; Ernie's, I'll involve everybody I nobod (both subjects talking very loud, unable to ascertain the next two lines.)

PETE MENGRONE: Your legimate beef your legimate beef, was to call Earl and say look I wanna sit down with you and your son, bring who ever you had to bring in, from the beginning.

ROSSI: Yeah.

PETE MENGRONE: When their was money owed from Florida etc.

ROSSI: Yeah.

PETE MENGRONE: But what happened here when I came to you.

ROSSI: Yeah.

PETE MENGRONE: And I said hey, I am in a lot of trouble financially.

ROSSI: Yeah.

PETE MENGRONE: So I said you wanna help, you said of course, we do everything for you were gonna help me with Kerney O'Donnell. Right?

ROSSI: Yeah.

PETE MENGRONE: Right.

ROSSI: Right.

PETE MENGRONE: No why all of a sudden did you sell me out.

ROSSI: Alright listen, I er Pete, I tell ya again. I didn't sell you out. There alot of other things involved over here. What time is this meet in the Magic Carpet?

PETE MENGRONE: 11 o'clock..

ROSSI: Well who's gonna be there?

PETE MENGRONE: Tony was gonna be there, he just wanted to talk to you and just say hey explain to you the trouble I'm in. Maybe you don't realize it.

ROSSI: I relize that your in trouble, the niggers want to come and kill you (inaud)

PETE MENGRONE: (Stutter) Why me? Stop and think for a second.

ROSSI: (inaud)

PETE MENGRONE: I was honorable with..

ROSSI: Well what started this all Peter?

/

PETE MENGRONE: Why can't we chase him after I give them the 30 and worry about the ' even if I gotta give you 10.

ROSSI: But, but in other words yeah in other words but I, I, I still didn't pull any any whatamacallit and yet I'm gonna I gotta come out smelling like the fuckin, I gotta go to sleep with the dogs and wake up with the fleas. Ernie gonna come out smelling like a pro. Why can't Ernie give up the twenty-six and I'll give up the thirty. Give them all their money back.

PETE MENGRONE: Yeah but, but time out (shutter) can we get can we get to a point you keep throwing a twenty six figure.

ROSSI: Twenty I mean.

PETE MENGRONE: Ok but don't forget out of that he was given manita and he was given the car for the girl. The figures like ten or twelve which like I said.

ROSSI: Now it's like ten or twelve.

PETE MENGRONE: Well its (stutter) whats he supposed to have given thirteen?

ROSSI: First you told me exactly Ernie.

PETE MENGRONE: He was supposed.

ROSSI: You told me Ernie kept sixteen thousand five hundred dollars for himself.

PETE MENGRONE: Took pieces of goods plus the cash what were the goods worth five?

ROSSI: I don't know (inaud).

PETE MENGRONE: Ok, we're talking eleven five plus the goods.

ROSSI: (stutter) what did Tony Brash say to you Ernie this other money with Ernie.

PETE MENGRONE: It hasn't been discussed for one reason.

ROSSI: Why hasn't it discussed?

PETE MENGRONE: Because ever today now when we saw the yom the question was the thirty is where is the problem because the thirty is where is the problem because the thirty was not his to you know to hand out, you follow me?

ROSSI: Yeah.

PETE MENGRONE: He stood for people that they put up this big money and he gets beat, turns around like I juggled it, he says the money I gave you.

ROSSI: You didn't give it to me.

PETE MENGRONE: TThank you.

ROSSI: In other words he's saying that a he don't wanna know nothing about anybody else being responsible because he gave you the fucking money.

PETE MENGRONE: Me because I wouldn't give you, you know to this to this moment you see this moment maybe you don't realize it that the people tell me I'm stupid I'm a chump like you know Pinky, Zin~~ie~~ie, they always Pete was a sucker.

ROSSI: Pinky said that you were stupid?

PETE MENGRONE: No along time ago I was considered a sucker.

ROSSI: But I never gave you up though to this moment because I'm not a I'm not a freehole, all I know is all I know.

ROSSI: Yeah (inaud) I'm a freehole.

PETE MENGRONE: No no all I know is theirs definitely a beef with you and Ernie from what I heard from the other guys it was moeny, like you say all over the place that was supposed to been whacked up between the two of youse.

ROSSI: Yeah.

PETE MENGRONE: Fine, but as a man and when I got three kids, why leave me in the middle of it your beef is with him, you should go to (inaud) you and him have it out fine. Then when youse finish it and it and you wanna do something you say fine, like Louie Guerra said we all wanna earn that what we're in this for.

ROSSI: Yeah.

PETE MENGRONE: Why blow everybody aw why blow me away?

ROSSI: (inaud) Peter what time is this meeting the Magic Carpet.

PETE MENGRONE: Eleven o'clock.

ROSSI: Alright one way.

PETE MENGRONE: Listen lemme ask you a question if its not even necessary.

ROSSI: But a...

PETE MENGRONE: Why don't you wh why don't you just.

ROSSI: No no listen to me, listen to me, just listen to me.

PETE MENGRONE: Go ahead.

ROSSI: The person who is representing me that Tony Braciolle knows,

ROSSI: knows him very well out of Brooklyn will be now you sure this is for eleven o'clock.

PETE MENGRONE: Positive.

ROSSI: Ok will be in the Magic Carpet tonight. This is the man that has the money. This is the man thats taking care of everything because my hands are fuckin washin it. I want you to understand the moneys still there. Theirs no problem with the money. They're gonna sit down, they're gonna talk this guy. I'm not gonna mention his name. I'm I can't mention the name, told me to stay in the woodwork not to go meet anybody to find out whats going on. He got in touch ah, I'm pretty sure he got in touch with Earl and Tony already, because I gave him all the numbers because in other words he don't want me doing any talking, he's gonna do all the talking and this bullshit will be resolved tonight. This is what I'm telling you that after, when he comes out a the woodwork then thats when I'm gonna come out a the woodwork but over here I'm telling you I got a new fucking deal. I went down Florida out a the six hundred pounds of tea. I don't know where it went their was all garbage left over here that I think they switched everything around (inaud).

PETE MENGRONE: (stutter) go one step further, stop and think for a second.

ROSSI: What.

PETE MENGRONE: Don't I owe you sixteen hundred dollars for the grass you gave to me so I could start moving to earn.

ROSSI: Yeah.

PETE MENGRONE: You know if if you would've stopped for five minutes along the way.

ROSSI: Peter lemme tell you something Peter, I'm gonna tell you something their was no their was not gonna be any beat from the beginning over here. Their wa this was not a fuckin beat. I will tell it to anybody. I don't give a fuck, yeah it was a fuckin beat yeah it was a fuckin beat you know. How I looked at it, I looked at it if ^{Somebody} else would gotten their hands on their money well their woulda been a big problem. I tell you that right now. I dor.'t wanna mention any names. I'm not gonna say nothing because the last thing I told you narurally you hadda tell Ernie. I told you I don't care because I'm not

Pete Mengrone: Which one was that well which one was that?

ROSSI: Well told him about the thirteen thousand that wasn't given downtown naturally you hadda bring that out whatever because I told him.

PETE MENGRONE: Oh because I hadda confront him didn't I.

ROSSI: No I told them that I told I ...

PETE MENGRONE: Because he's he's sitting there like Albert had all the money.

ROSSI: Well you told me.

PETE MENGRONE: And I said and I turned around and said er hey Albert Ernie I go I know you didn't give him the money.

ROSSI: Right well I told.

PETE MENGRONE: But thats between thats between you and I.

ROSSI: I told him the reason why I told you that because he called me a a fuckin beat artist and he told you I I was beatin from the beginning but a.

PETE MENGRONE: He was told face to face in fromt of my uncle Frank.

ROSSI: Yeah.

PETE MENGRONE: We were sitting at Domonics I said what you have which is owed to me you and I will work out it is not important right now because it's a drop in buck in a the bucket for one reason all the yom knows is that he's on.

ROSSI: Lemme ask you something Peter lets look at the woist supposed the thirty can't be comin up with over here then whats gonna happen.

PETE MENGRONE: Then theres gonna be a problem with the yom. It's it's a guarenteed fact.

ROSSI: Whade you mean problems.

PETE MENGRONE: Because it's peoples money that was put in his hands to do business.

ROSSI: Well but supposing supposing this guy the other guy the other black guy, down harlem confronts the yom and told the yom (inaud) exactly the story went down then what would you think would happen.

PETE MENGRONE: In what.

ROSSI: You think everybod's been sleeping over here because people you went to your uncle Frank the people went to Tony Braciolle. (inaud) my ~~uncle Frankie is my uncle Frankie~~ thats period.

ROSSI: Alright.

PETE MENGRONE: I mean you know that you spoke with my cousin too, so theirs no problem then.

ROSSI: Yeah no.

PETE MENGRONE: Their not involved except that you know make sure I don't get killed.

ROSSI: (inaud)

PETE MENGRONE: But I.m talking in terms of....'

ROSSI: Do you think that everybody else is gonna smell like a rose and I'm gonna smell like a fuckin dog.

PETE MENGRONE: I don't want you smelling like you know why I don't want you smelling.

ROSSI: Don't smell like a dog.

PETE MENGRONE: (inaud)

ROSSI: Peter I got ruined over here all the way around I got ruined over here seventeen thousand dollars invested in Florida that I didn't care, I owe Louie Guerra thirty thousand dollars and Ernie turned around and said give him the two-hundred things of what-u-ma-call-it the big guy, the big guys involved over here. I mean theirs a lotta fuckin things involved over here.

PETE MENGRONE: Well what makes me laugh ok is even to the point where I took ya to the Cubans.

ROSSI: No I understand but don't ya.

PETE MENGRONE: Everything I.

ROSSI: Now wait listen to me now don't ya think people over there reached out for this Frank Lucas? Don't ya think the big guy knows Frank Lucas? Don't ya think the big guy did time with Frank Lucas, that you think that the story is gonna be just told to him the way people wanna tell it, the way Ernie wants to tell it, if Ernie wants a meet him or do you think all the truth is gonna come out over here, I mean this is what I'm trying (inaud).

PETE MENGRONE: I have spoken to to, I have spoken.

ROSSI: Listen to me.

PETE MENGRONE: To Lucas everyday.

ROSSI: Just listen to me, what I am trying to tell you is Frank Bibens is getting involved is stepping out to get Frank Lucas the people in Brooklyn it is entirely in their hands, its not in my hands anymore they don't want me to talk with Earl, they don't want me to talk to Tony Brashole, they don't want me to talk to nobody because over here, I'm not wrong, over here I'm right over here its gonna be resolved over here 11 o'clock at the Magic Carpet somebody will be there and everything will come outta the woodwork, now if it's gotta be that that other things gotta go back, if it goes back I want my fucken end from Ernie, I want my fucken end if, if the fucken, if the whole thirty, if the people in Brooklyn, turn around say yea, we give the money back before the know this money is given back, I want all my fucken money from the tea thats owed to me, I want all my money from the money that he beat this nigger outta the \$26000, Jimmy wants his \$15000, that Tommy took \$50000 off Frank Lucas and Ernie and I gotta go at it head to head, because.

PETE MENGRONE: (inaud)

ROSSI: You delivered a mess, Ernie, Ernie gave me a message to go fuck myself but tell Ernie whats in my heart and in my blood, I will meet him, his father can't help him, nobody could help him, you deliver this message to him, you tell him that the way he hadda watch an carry a gun he knows whats on my mind and whats in my heart, that I will approach him (inaud) I don't know when I'll approach him but its gonna be when I know its gonna be just him and I, and it has nothing to do with the pot money, its something thats in my heart, that he knows what it is, tell him that he knows what it is.

PETE MENGRONE: Well Louie, Louie Lapore called the shot.

ROSSI: What.

PETE MENGRONE: That he said.

ROSSI: Yea in my fuckin heart-----you understand me?

PETE MENGRONE: He says.

ROSSI: Thats why I'm doing this, thats why I'm doing it, I don't wanna bring it out, but thats why I'm doing all this, It's in my fucken heart an it can't be in my heart anymore an I got the ok from the people in Brooklyn not small people, big people, do you understand me Peter, I'm not talking about, I'm not talking about small people, I'm not talking about mere button guys, I'm talking about bosses, bosses told me don't give a penny of this fucken money back until all the shit 's bought out, till everything goes down right, you understand me----

PETE MENGRONE: Did you tell them, did you tell em you included somebody that had nothin to do with anybody.

ROSSI: Yes, I told him I told him that somebody was included from the begining I told him the whole story from the tea I didn't lie, I says Ernie took money off them 3 weeks ago, that juggled that money, then there was another 30,000 given out, thats the money you people are holdin, plus all the other shit that want on, I mean does Ernie remember that I'm I, I got all cases going because a him, that they put me with his father, that I want to shake somebody down, all this is coming out, that thats whats in my heart, thats in my blood, tell Ernie I can't, I can't even look at him, because you-----

PETE MENGRONE: Keep, keep one thing in mind though, you keep yellin that figure.

ROSSI: I'm not.

PETE MENGRONE: Keep one thing in mind.

ROSSI: 16,000 alright Peter.

PETE MENGRONE: I'm I'm on the hook for Kenny O'Donnells or whatever his name is 6 grand.

ROSSI: Right.

PETE MENGRONE: Ok, you know I was on the hook for that.

ROSSI: Alright, yea.

PETE MENGRONE: The money he put hands.

ROSSI: How about- how about something else, how about- how about all the other people that got their money involved over here, Jimmy the hardon he's a rat, good----

PETE MENGRONE: Eh, eh let me tell you something- (inaud both Pete and Al talk)

ROSSI: Ernie don't remember, Ernie called the people rats, that Jimmy wrote notes to people, but the people Jimmy wrote the notes to,-----

PETE MENGRONE: I want you to say one thing to me--

ROSSI: What, were you honorable.

PETE MENGRONE: With you.

ROSSI: Yeah now I can ask you something else.

PETE MENGRONE: Go ahead.

ROSSI: Could I ask you something else, I mean did we really really want to get technical, over here, really if we really want to get technical ah, Ernie told you from the beginning, that he was gonna do everything legit right?

PETE MENGRONE: Ya know your telling me he wasn't (inaud) (both talk).

ROSSI: Pete I wanna know one thing, what does Ernie got over you that your afraid of him, is it blackmailing you? Did he blackmail you with your wife, did he take a picture or your afraid because he killed somebody in the bar or whatever or I don't wanna talk on the phone--

PETE MENGRONE: I know, but you know the truth, no, not not not anything that you could put your finger not, not, no fear, its just a matter of---

ROSSI: That you like him.

PETE MENGRONE: That not even that I like him, I like both of ya's I did say we had fun together, we screwed around together.

ROSSI: Yea.

PETE MENGRONE: All I knew was there was a chance to earn with the two of ya like you said Ernie and you were still partners, I didn't know until the whole shit hit the fan.

ROSSI: Pete, this, this, this not the problem only.

PETE MENGRONE: Didn't you say to downtown, you said it was a 3 way spilt?

ROSSI: Yea.

PETE MENGRONE: Me, you and him.

ROSSI: Yeah, this is not a problem with the niggers over here, this is a bigger problem, this is a bigger problem believe me.

PETE MENGRONE: But I'm just saying like you said I.

ROSSI: Tony Brashole don;t know nobody knows because when everybody knows ~~what the problem is I'm right.~~

PETE MENGRONE: No what Tony all, all.

ROSSI: (inaud)

PETE MENGRONE: All Tony Brashole knows Ok is that I'm in trouble, and I went to my good man and said, I don't have anybody.

ROSSI: Yeah.

PETE MENGRONE: I went to Albert I thought I could make money with him it was an honorable thing an-----

ROSSI: An you got beat.

PETE MENGRONE: Right.

PETE MENGRONE: (inaud) he said I beat ya, do what you gotta say, you gotta say what you feel.

PETE MENGRONE: An you know to t'is moment.

ROSSI: What.

PETE MENGRONE: I can't see why you would, would you believe this...

ROSSI: What did Tony say when he told ya, ya told e I beat em.

PETE MENGRONE: Hm no he.

ROSSI: What he say?

PETE MENGRONE: You want the truth?

ROSSI: Yea.

PETE MENGRONE: He thinks your a good kid, its probably the coke, that you been running around and everything- that if you could just settle down for a couple of days, you see what you have to do to do the right thing.

ROSSI: Alright listen to me Pete.

PETE MENGRONE: Because he's a man and he says you got nothing to fear, if you would have gone down there last time like you were suppose to.

ROSSI: Yeah.

PETE MENGRONE: He would have just talked to you like a man.

ROSSI: Down where?

PETE MENGRONE: He wanted you, you were supposed to come down the Carpet last nite.

ROSSI: When?

PETE MENGRONE: Well, see this why Louie Lapore makes me laugh, he says you---

ROSSI: I didn't get no message.

PETE MENGRONE: You called, you called a meeting for nine, o'clock and Louie Lapore said, fine I'll meet him at the Carpet, I was down there with Tony Brash.

ROSSI: I didn't get no message about no Magic Carpet, the only meeting I know about, that ya had a meeting at the Web Bar that Hi hat, thats the only thing I know about.

PETE MENGRONE: Yea, and Gooch made Ernie admit right to my face that ya know he had that money and he was spendin the money etc, you know.

ROSSI: The what, Ernie what?

PETE MENGRONE: That Ernie had spent the money ya know, ah that he was holding.

ROSSI: That he seen it.

PETE MENGRONE: That he that was a beat, that he intended to beat me up till the last minute, and Gooch made him pull, pulled it right out of him, and the you know Ernie admitted it?

ROSSI: Yeah.

PETE MENGRONE: I said well thats fine but thats up to me and Ernie, to resolve.

ROSSI: Ah listen to me.

PETE MENGRONE: Lemme show ya somethin.

ROSSI: Listen to me Peter.

PETE MENGRONE: Can I explain somethin to you just once?

ROSSI: Yeah, go ahead (inaud) I got nothin against you.

PETE MENGRONE: Maybe you could understand, but Jimmy see, Jimmy keeps yelling in the background, it don't help matters.

ROSSI: Yeah, but Jimmy ain't yellin.

PETE MENGRONE: No, but see lemme explain something, maybe you could explain to Jimmy, I'm under no immediate pressure.

ROSSI: Yeah.

PETE MENGRONE: To recover the money from Lucas, I can answer to Lucas, I could come with 10-15 if I have to ya know, sell a piece of the club ya know, manipulate, I always manipulate you follow?

ROSSI: Now listen Peter.

PETE MENGRONE: But I got.

ROSSI: Do this Peter, Peter, Peter.

PETE MENGRONE: Go ahead .

ROSSI: Lemme tell you something, I got nothing against you, whether you talk whatever you said, whatever was what, I got nothing against you, as far as I'm concerned, you didn't do nothing to me.

PETE MENGRONE: Your cousin was there thought, the whole thing, I didn't down you, I didn't say 6 fucken words, all I said is, I don't know why he would do it to me, thats the question in my mind, up to this moment I don't believe it, I say to myself its a bad dream, because you never had anything but good words for me,---

ROSSI: Yeah.

PETE MENGRONE: It's pete this, Peter that, you know, we break big balls, we buy the car we do this.

ROSSI: Alright listen to me.

PETE MENGRONE: You put me in a position, I'm gonna get killed, why.

ROSSI: Nah, I don't want to get killed, just listen to me.

PETE MENGRONE: You don't think it could happen?

ROSSI: No, oh yea of course, we know it could happen, I can get killed too.

PETE MENGRONE: He come up today, he come up today with guns, what are we talking I meet today alone (inaud)

ROSSI: Frank (inaud) parts to come.

PETE MENGRONE: Ya, I get him alone, his brother was there with a shotgun, there chasing him, he's chasing me, I don't need this shit.

ROSSI: No you don't you don't.

PETE MENGRONE: It's the point, its the point like you said, you been in my house, if you didn't berak bread and know, know my wife and kids I say fine he doesn't know me from a hole in the wall, and you know they keep saying give him up, give, bullshit, I'm a man I would'nt want you under what I am under now.

ROSSI: Yea.

PETE MENGRONE: Because I gotta hide, I gotta hide from Yoms for what I gotta make you do the same thing, cause -----makes it right.

ROSSI: No.

PETE MENGRONE: I told you, I told your cousin at the club, when I meet him at the Hi Hat, I said I'm not giving anybody up, and I was told I'm a fool what bullshit.

ROSSI: Ah, listen to me, ah let me leave off which you this way, ah all I know is that somebody beat at the club tonight, if I come there with this guy from Brooklyn, then I'll come, What time you leaving your house?

PETE MENGRONE: I gotta leave now, cause I'm gonna try you know, I'm scrambling, I'm trying to pick up

ROSSI: How about the (inaud)

PETE MENGRONE: Of the girl and see if I can off that.

ROSSI: Yeah, how about could you offer that, I am trying but I got something for you to offer to.

PETE MENGRONE: Well what do you think I am doing I am trying to get whatever I can to give the Yom the money.

ROSSI: (inaud) Tony.

PETE MENGRONE: Ha.

ROSSI: Did he give you anything?

PETE MENGRONE: How could I, how could I in the middle of this hit. Thats what you thru me right off the comedown, I was supposed to do it Eriday night to give to you.

ROSSI: (inaud) use the girl too.

PETE MENGRONE: Yeah.

ROSSI: They can move that.'

PETE MENGRONE: I can move anything I can get my hands on, the point is I know I'm in a position I gotta move stuff and how do I go to Brocio'le and say look, I'm between me getting beat for this would you mind fronting me some goods, he'll look at me like I'm a wack-o.

ROSSI: Alright listen to me.

PETE MENGRONE: On top of it, stop and think.

ROSSI: What.

PETE MENGRONE: You know who's giving me goods because I was in trouble financially right, he not doing (inaud) better do this time.

ROSSI: Yeah, I know.

PETE MENGRONE: So now the guy looks at me like you know, we what is it with you give away money.

ROSSI: Yeah.

PETE MENGRONE: He down you, he said, I knew Albert, Albert was a good boy fine he blame on the coke, fine I blamed it on the coke, nobodies put you down and said you were a rat yet, all I said was, I don't know why he would do, they keep asking, well what does he have against you.

ROSSI: Yeah.

PETE MENGRONE: And said to this day, nothing because I never done nothing to him and you know it.

ROSSI: Yeah (inaud)

PETE MENGRONE: I sat in the car with you the other night, I got mad and you said you wanted to go downtown. I had Lucas ready the next day with the money.

ROSSI: Yeah.

PETE MENGRONE: I did everything you told me to do.

ROSSI: Yeah, like I say you didn't bull shit, over here you did what the fuck you had to do.

ROSSI: Every shot you called, in fact to the point of when you said to have him there, with the money that day to go downtown with you he sat with the fuckin attache case and says where's your man.

PETE MENGRONE: Didn't I tell ya, I was gonna he could hold me hostage, I mean if you think a people didn't have anything down there he would have said this.

ROSSI: Well the point wa.

PETE MENGRONE: Ah, think I gonna make people just hold me hostage and just beat people out right. I mean answer me, do, don't you think if I wanna I could. To this, to this moment.

ROSSI: Don't you think if I wanna, I could make an appointment with Lucas turn around and get 12 or 13 of my boys together and go smoke em all out, smoke em up in smoke, don't cha think I you don't think.

PETE MENGRONE: Louie Guerra, Louie Guerra went so far as to leave me his gun because he knew I didn't have one. (inaud) I only had the one piece and Frankie boy had it ok.

ROSSI: Yeah.

PETE MENGRONE: Your cousin Bobby offered to come up here stay with me just in case there was a problem.

ROSSI: Ah right.

PETE MENGRONE: Louie Lapore there guys all offered to help.

ROSSI: Just (inaud)

PETE MENGRONE: Cause it was no longer matter of you know (inaud) nothing, it was matter.

ROSSI: The niggers.

PETE MENGRONE: I could get killed and why me cause his under pressure now and the way he's panicing he's liable to panic and blow me and some people away, and he knows where I live Albert.

ROSSI: Yeah.

PETE MENGRONE: Because he's been in my house.

ROSSI: Yeah.

PETE MENGRONE: And I said this to (inaud) don't you wanna beat eh Cubans or somebody that ain't been here. Thats er well have fun doing that, don't ever do it when people know my house. This guy meet my wife and kids and to me he proved a point ok, he proved a point and I shit. I am leveling as a man, I shit because I didn't nothin wrong there was no way I could put my hands on that kind of money.

ROSSI: Yeah.

PETE MENGRONE; 10-15 you know, till we scramble for a couple of weeks, we move three or four pieces fine, I just turn everything over to him.

ROSSI: Yeah.

PETE MENGRONE: Thats why like you said, after it was over my beef with Ernie would come after your beef with him and I know it.

ROSSI: Alright just listen to me, listen to me.

PETE MENGRONE: Go ahead.

ROSSI: Listen to me, please listen to me.

PETE MENGRONE: I am listening.

ROSSI: Believe in me, that one way or another over here 11 o'clock somebody will be in the Magic Carpet, it might be me.

PETE MENGRONE: Ok.

ROSSI: I might come with the guy from Brooklyn, I don't know what he's gonna tell me, but I wanna find out what has gonna tell me and I won't leave you hanging any more I'll call you up every, every two hours (inaud).

PETE MENGRONE: I'd wish you'd call me, along, cause I would have talked to he, he makes me sit in the ----- the other day.

ROSSI: (inaud) leave me something, I, I we'll do something, but.

PETE MENGRONE: Anything at all cause the Lucas is panicing, ok he's coming out with guns, and I can't handle him, ah Albert.

ROSSI: We do, let me tell you something you know what it is to go ah, I got a movie, watch the same movie everyday. The silent submarine, you know it si to walk around with that every fucken day wearing overcoats in the summer time, well that's what I walk around with everyday.

PETE MENGRONE: Yeah.

ROSSI: Cause Ernie anybody their fuckin mothers, I do, you gotta deliver that message to Ernie tell Ernie what I got in my heart nobody else knows, just him and I knows, and him and I gotta meet alone, when ever day comes, but tell him its gonna come.

ROSSI: Na, this problem won't be resolved.

PETE MENGRONE: Understand that even this kid Jimmy, like has sits there and he screams and rants and raves.

ROSSI: Yeah.

PETE MENGRONE: And its odd.

ROSSI: No rig! nobody should carry tales out of school say.

PETE MENGRONE: No.

ROSSI: He wants to wack Earl, Ernie and you because the guy was mad.

PETE MENGRONE: You know the guy was look to wack me.

ROSSI: (inaud).

PETE MENGRONE: Me, me that I want to the meet youse and I sit.

ROSSI: Let tell you something we didn't trust you that night, and that was it.

PETE MENGRONE: How could you not trust me? I didn't do nothing wrong.

ROSSI: We didn't know what was going on we thought maybe you were setting us with the niggers and we were being cautious thats all. You weren't getting wacked you the only reason (inaud).

PETE MENGRONE: How long, how long you know me you know me quiet a while.

ROSSI: The only way that you would have got wacked if the niggers would have come down on us.

PETE MENGRONE: Did you know me quite a while though.

ROSSI: Yeah, alright listen.

PETE MENGRONE: By my reputation.

ROSSI: Yeah, Peter.

PETE MENGRONE: Am I that kind of guy.

ROSSI: You know listen to me I am downtown I don't wanna top this phone, I am tying up this phone cause I am expecting to hear from my man in Brooklyn. Ernie one way or another, you'll hear from somebody tonight you got my word of honor.

PETE MENGRONE: Ok.

ROSSI: Then if you don't hear from somebody tonight them, if you don't, if you don't get a phone call at the Magic Carpet 11 o'clock or somebody from Brooklyn don't come there. Then give me up to the niggers, you hear what I'm saying.

PETE MENGRONE: I still won't do it.

ROSSI: You hear what I am sayin.

PETE MENGRONE: I can't do it, I can't do it so don't even say it.

ROSSI: But do you hear, what I am sayin.

PETE MENGRONE: Ok I am just telling ya something like that. I am telling ya that thats how sure its gonna be.

PETE MENGRONE: You forget I was there when they christened your baby, you bannana.

ROSSI: Alright that's how to, thats how sure I am telling ya its gonna be.

PETE MENGRONE: Ok.

ROSSI: Alright, one way or another you'll.

PETE MENGRONE: As I said to you before I can handle Lucas with his personal money.

ROSSI: Yeah.

PETE MENGRONE: Because its.

ROSSI: 26 not with the 30.

PETE MENGRONE: Thank you ok, because I had to stand up Kenny, Kenny O'Connell went down there he gotta.

ROSSI: He went down there told em, said look I'll work for you do anything you want, scores, to work it off as a man he went down.

PETE MENGRONE: What did.

PETE MENGRONE: See with this.

ROSSI: What did he say.

PETE MENGRONE: Lucas accepted it ok, I have to get his girl a car, so fine I finance it under my own name I pay it off, you follow me I can manipulate the cover him.

ROSSI: Yeah.

PETE MENGRONE: But the point is, matter of fact I even said to you when you were gonna get the manita on assignment I could turn that over still work off some of the money, I could get my end out of Ernie. Don't worry, when the time came, I said to ya on the phone that night. I didn't got no balls, I'll walk over say hey, guy left me money to do something on my own. Your son was holding and now all of a sudden he's got tracks and here jerking off.

ROSSI: Your getting sick over this the way I am alright lets (inaud)

PETE MENGRONE: And the worst part was to earn a stinkin 5 or 10 grand to go into the hospital to get my operation, make any sense make any sense at all.

ROSSI: No.

PETE MENGRONE: That and like you said if it wasn't for your own crew helping, I am along because Ernie ain't gonna help me, who else is gonna help me.

ROSSI: Alright, listen to me one way or another, you'll hear from my people, me, thru my people tonight at the Magic Carpet.

PETE MENGRONE: Go ahead.

ROSSI: Alright.

PETE MENGRONE: I trust you.

ROSSI: One way or another and I'll be in touch with too.

PETE MENGRONE: I never gave you up understand that, ok.

ROSSI: Alright Peter.

PETE MENGRONE: Ok.

ROSSI: Ok.

PETE MENGRONE: Bye, bye.

END OF CONVERSATION.

STATE OF NEW YORK)
: SS.
COUNTY OF NEW YORK)

ROBERT BAILEY, being duly sworn, deposes and says, that deponent is not a party to the action, is over 18 years of age and resides at 286 Richmond Avenue, Staten Island, N.Y. 10302. That on the 28 day of June, 1977 deponent served the within Appendix upon: M. H. Bailey

attorney(s) for Appendix

in this action, at 117 Andrews Place
N.Y.C.

the address(es) designated by said attorney(s) for that purpose by depositing 3 true copies of same enclosed in a postpaid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States post office department within the State of New York.

Robert Bailey
Robert Bailey

Sworn to before me, this 28
day of June, 1977.

William Bailey
WILLIAM BAILEY

Notary Public, State of New York
No. 43-0132045

Qualified in Richmond County
Commission Expires March 30, 1978